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3       BOROUGH OF WOODCLIFF LAKE  
4       Zoning Board Agenda  
5       IN RE: 216 Broadway, LLC  
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9                       TRANSCRIPT of the stenographic notes of  
10   the proceedings in the above-entitled matter, as  
11   taken by and before PAMELA ADAMO, a Certified  
12   Shorthand Reporter and Notary Public of the State of  
13   New Jersey, held via Zoom, on March 30, 2022,  
14   commencing at 7:35 p.m.  
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<p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S:  2 ROBIN MALLEY - Chairwoman  3 CHRISTINA HEMBREE  4 LYNDA PICINIC  5 PHILLIP MANISCALCO  6 BARBARA BUSHELL  7 MEG SMITH  8 SAL PRINCIOTTO - Board Attorney  9 ELIZABETH LEHENY - Board Planner  10  11 BEATTIE PODAVANO, LLC  200 Market Street  12 Montvale, NJ 07645  BY: ARTHUR NEISS, ESQ.  13 Attorneys for 216 Broadway, LLC  14 John DaCosta, Jr.  Anthony Kuras  15 Joseph Burgis  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 4</p> <p>1 CLERK SMITH: Mr. Gary Menze?  2 MR. MENZE: Here.  3 CLERK SMITH: And Ms. Lynda Picinic?  4 MS. PICINIC: Here.  5 CHAIRWOMAN MALLEY: Okay. So we have  6 our application that is continued, 216 Broadway, LLC,  7 Block 2602 Lot 11, which is 216 Broadway in an R-15  8 zone.  9 Requesting variance for, one, a use  10 variance for multiple dwellings in a single-family  11 zone.  12 Two, maximum building coverage of  13 16.1 percent where 15 percent is required. That's an  14 existing nonconforming with no change.  15 Three, maximum total coverage of  16 60.5 percent where 40 percent is required, again  17 existing nonconforming, that's at 55.8 percent.  18 Four, total maximum height of 40.1 feet  19 where 30 feet is required. Existing nonconforming is  20 33.5 feet.  21 Five, minimum front yard setback of  22 18.5 feet on Broadway and 31.8 feet on Highview  23 Avenue, where 35 feet is required. The existing  24 nonconforming, that's with no change.  25 That was received on 9/8/21. It was</p>
<p style="text-align: right;">Page 3</p> <p>1  2  3 CHAIRWOMAN MALLEY: Call to order this  4 meeting in accordance with the Open Public Meetings  5 Law, PL 1975 Chapter 231, was announced at the  6 reorganization meeting held on January 25, 2022, in  7 the municipal building.  8 Notice of this meeting was posted in two  9 newspapers, The Record and the Ridgewood News. The  10 public is advised of the zoning board's rule that  11 meetings are concluded by 10:30 p.m. Pledge of  12 allegiance.  13 (Pledge of Allegiance.)  14 CHAIRWOMAN MALLEY: Roll call.  15 CLERK SMITH: Chairwoman Malley?  16 CHAIRWOMAN MALLEY: Here.  17 CLERK SMITH: Ms. Barbara Bushell?  18 MS. BUSHELL: Here.  19 CLERK SMITH: Ms. Dianna Cereijo? Mr.  20 Sanjeev Dhawan? Ms. Christina Hembree?  21 MS. HEMBREE: Here.  22 CLERK SMITH: Mr. Michael Kaufman?  23 MR. KAUFMAN: Here.  24 CLERK SMITH: Mr. Philip Maniscalco?  25 MR. MANISCALCO: Here.</p>	<p style="text-align: right;">Page 5</p> <p>1 deemed administratively complete on 9/14/21, deemed  2 complete by the borough engineer on 10/14/21.  3 And I guess we'll turn that over to  4 Mr. Neiss.  5 MR. NEISS: Good evening, Madame  6 Chairwoman and members of the board. My name is  7 Arthur Neiss, N-E-I-S-S, with the firm of Beattie  8 Podavano and I, of course, represent the applicant.  9 Before proceeding tonight I would just  10 like to go on record and thank you all for allowing  11 us to come here and in a special meeting and also  12 that you are all here. I can say on behalf of the  13 applicant that we are grateful for the consideration  14 that you have given us here.  15 That said, I think I'd like to just  16 press ahead with the application. There are a couple  17 of open issues and there has been a change to the  18 plan and I think that you all, I hope that you all  19 have gotten the revised site plan that we submitted  20 to Meg.  21 In this regard, my preference this  22 evening is that I have three witnesses to present to  23 the board. Mr. DaCosta, a gentleman by the name of  24 Michael Westphal and I will explain who he is in a  25 moment, and then Mr. Burgis will return for, I</p>

DaCosta - continued examination - Neiss

<p style="text-align: right;">Page 6</p> <p>1 believe, cross-examination and for any questions from 2 the public. 3 So unless the board has any further 4 questions or issues, may I then proceed? 5 CHAIRWOMAN MALLEY: Yes. 6 MR. NEISS: Thank you. I'm going to do 7 this in a little out of sync because Michael Westphal 8 is the president of a company that has been engaged 9 by my client for purposes of picking up the refuse at 10 the site. 11 The board will note that one of the 12 major changes to the site plan was the creation of a 13 trash enclosure area. And he will testify concerning 14 that and concerning what his company has been 15 contracted to do. 16 Before we reach him, however, I'd like 17 to reintroduce Mr. DaCosta the managing member of 18 LLC, the applicant, just to talk quickly about the 19 changes to the plan that you have before you. So if 20 I may reintroduce John DaCosta. 21 CONTINUED DIRECT EXAMINATION BY MR. NEISS: 22 Q. And Mr. DaCosta, you recognize that you 23 remain under oath; correct? 24 A. I do. Thank you. 25 Q. Great. Can you please just go through</p>	<p style="text-align: right;">Page 8</p> <p>1 one for I believe they called a single stream or 2 recycling if I've got the term correct, Mr. Westphal 3 can probably correct me when his time comes, but it's 4 essentially the recycling for the plastics commingled 5 and cardboard. 6 We did move around some of the shrubbery 7 that would, that, you know, that area displaced. But 8 we didn't delete any. We just found a new home for 9 it on the site. 10 The, again, the enclosures are two 11 2-yard enclosures. We changed the enclosure from 12 about 10-foot wide and about 8-foot tall to about 13 13 and a half foot wide and about five and a half foot 14 clear, or five and a half foot from front to back. 15 And we modified the curb cut as well as the asphalt 16 to accommodate that enclosure. 17 I will pause there, Mr. Neiss. It's 18 essentially, the size of the changes and if there are 19 any particular changes I'm happy to field them. 20 MR. PRINCIOTTO: Just for the record, 21 you referred to it as S-1, but actually we've marked 22 that as Exhibit A-12. 23 THE WITNESS: Thank you. 24 MR. PRINCIOTTO: For the record. And 25 the landscaping plan details was marked A-13.</p>
<p style="text-align: right;">Page 7</p> <p>1 the site plan changes that have been made to the 2 plan? 3 A. I can. I'm trying to present my screen 4 although I'm having some limited success. Is anybody 5 able to see it, my screen actually? 6 Q. No. 7 A. Okay. Does everybody have a copy of the 8 site plan in front of them, maybe we can -- 9 MS. HEMBREE: Yes. 10 A. So I'd like to call attention to the 11 first of two plans. 12 The first titled S-1 which is 13 essentially the site plan and what you'll notice in 14 the revision, there is a revision diamond three. 15 Just sort of to the center, but the northeast plan 16 looking towards Highview and actually towards the 17 exit onto Highview you will notice that the trash 18 enclosure has been modified. 19 And essentially what we did here is 20 after consulting with Mr. Westphal, we determined 21 that the dimensions, the general area didn't change 22 terribly, but the dimensions and the aspect ratio of 23 that enclosure changed to accommodate the two 2-yard 24 containers that Mr. Westphal had discussed with us 25 and which is essentially one for a general waste and</p>	<p style="text-align: right;">Page 9</p> <p>1 THE WITNESS: Yes. And just for the 2 record, that was a modified sheet L-1 to S-13. 3 MR. PRINCIOTTO: Yes, so that L-1 is 4 A-13 and S-1 is A-12. 5 THE WITNESS: Yes. 6 MR. NEISS: I'd like to thank Meg for 7 forwarding to me a complete copy of the exhibit list 8 today. Thank you. 9 If the board has no questions at this 10 time for Mr. DaCosta I'd like to introduce Michael 11 Westphal. Mike, you with us? 12 CHAIRWOMAN MALLEY: Michael needs to 13 unmute. 14 MR. PRINCIOTTO: So we are going to 15 defer cross examination of Mr. DaCosta until we 16 finish the next witness and then you will open to the 17 public for both of these witnesses. 18 MR. NEISS: That's up to you 19 Mr. Princiotto. If we are at a point in the 20 application where if the board has questions or wants 21 to cross-examine Mr. DaCosta on his testimony just 22 now I'm happy to have that go forward. 23 MR. PRINCIOTTO: Okay. Chairwoman 24 Malley, do you have any -- 25 CHAIRWOMAN MALLEY: I have no questions.</p>

<p style="text-align: right;">Page 10</p> <p>1 Does anybody have questions on that?</p> <p>2 MS. HEMBREE: No.</p> <p>3 CHAIRWOMAN MALLEY: Why don't we get</p> <p>4 Mr. Westphal sworn in.</p> <p>5 MR. PRINCIOTTO: All right. I see him.</p> <p>6 There he is.</p> <p>7 MR. WESTPHAL: Everybody can hear me?</p> <p>8 MR. PRINCIOTTO: Could you raise your</p> <p>9 right hand please, sir.</p> <p>10 MR. WESTPHAL: Yes, good evening, how</p> <p>11 are you.</p> <p>12 MR. PRINCIOTTO: Could you state your</p> <p>13 full name and business address for the record.</p> <p>14 MR. WESTPHAL: Michael Westphal,</p> <p>15 Westphal Waste Services 100 Industrial Avenue,</p> <p>16 Ridgefield Park, New Jersey 07660.</p> <p>17 MR. PRINCIOTTO: Mr. Westphal, do you</p> <p>18 swear to tell the truth and nothing but the truth, so</p> <p>19 help you God?</p> <p>20 MR. WESTPHAL: Yes, I do.</p> <p>21 MR. PRINCIOTTO: Okay.</p> <p>22 DIRECT EXAMINATION BY MR. NEISS:</p> <p>23 Q. Mr. Westphal this is Arthur Neiss. Can</p> <p>24 you please tell the board by whom you are -- what</p> <p>25 your occupation is?</p>	<p style="text-align: right;">Page 12</p> <p>1 is how many units will be involved in the particular</p> <p>2 property. So right now if I'm not mistaken there's</p> <p>3 6 units that are proposed; correct?</p> <p>4 Q. There are three current and three</p> <p>5 proposed; correct.</p> <p>6 A. That would be total of six on the</p> <p>7 property.</p> <p>8 Q. Yes.</p> <p>9 A. So based on that and other properties</p> <p>10 that we service and collect for, we proposed offering</p> <p>11 considering the property, a 2-cubic yard dumpster</p> <p>12 picked up two to three times weekly depending on the</p> <p>13 frequency, also to make it simple single stream</p> <p>14 recycling for the recycling service which combines</p> <p>15 cardboard, bottles and cans and paper in one</p> <p>16 container.</p> <p>17 Q. And based on your experience in this</p> <p>18 field, do you believe that the containers that are</p> <p>19 shown on the site plan would be sufficient for the</p> <p>20 purposes of this the 6-unit building?</p> <p>21 A. Yes. 2 cubic yards that's two 2-cubic</p> <p>22 yard containers, one for household trash and one for</p> <p>23 single stream recycling picked up minimum two times</p> <p>24 per week will keep the property safe, secure and</p> <p>25 rodent free.</p>
<p style="text-align: right;">Page 11</p> <p>1 A. So I am the owner president of Westphal</p> <p>2 Waste Services. I have been in business since 2009.</p> <p>3 We are a full service waste and recycling company</p> <p>4 specializing in municipal, private and residential</p> <p>5 contracts.</p> <p>6 Q. And does your company do work in</p> <p>7 Woodcliff Lake?</p> <p>8 A. Yes, currently now we do. Yes.</p> <p>9 Q. Great. And have you had occasion to</p> <p>10 review the site plan that Mr. DaCosta just testified</p> <p>11 concerning?</p> <p>12 A. Yes, I have. We have spoken over the</p> <p>13 plan numerous times.</p> <p>14 Q. And so you played a role somehow in the</p> <p>15 change to the site plan; correct?</p> <p>16 A. Yes. When he initially contacted me we</p> <p>17 went over, you know, how the garbage would be picked</p> <p>18 up, how much garbage would be anticipated to be</p> <p>19 collected, how many days per week and then also just</p> <p>20 recently the new garbage corral enclosure housing</p> <p>21 these recycling containers and trash.</p> <p>22 Q. If you could just tell the board some of</p> <p>23 the answers to those not really questions, but some</p> <p>24 of the issues that you just raised?</p> <p>25 A. Well, the first thing that we went over</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. What about issues like bulk waste? For</p> <p>2 example, if somebody wants to get rid of a sofa or a</p> <p>3 chair or something like that, what arrangements are</p> <p>4 going to be made for that?</p> <p>5 A. So that's going to be an on-call basis.</p> <p>6 It would be appointment necessary and it would be a</p> <p>7 scheduled day where it's placed in the recycling area</p> <p>8 or a designated zone and it would be picked up within</p> <p>9 that 24-hour period.</p> <p>10 Q. And if it's determined and I expect it</p> <p>11 will be determined by you or the folks who work for</p> <p>12 you that twice a week pick-up is insufficient, what</p> <p>13 is your plan with regard to handling that issue?</p> <p>14 A. Well, based on our past experiences and</p> <p>15 other buildings similar to Mr. DaCosta's property we</p> <p>16 determined that most likely and we estimate and put</p> <p>17 our best foot forward that it would be a 2-cubic yard</p> <p>18 container twice a week pick-up for the trash removal,</p> <p>19 but considering it's always an estimation and things</p> <p>20 can change or the garbage frequency can increase, we</p> <p>21 can always increase service. Our goal is to keep all</p> <p>22 the trash inside of the container that's on wheels</p> <p>23 and has a lid. If it becomes an issue where we</p> <p>24 notice that the garbage is continually overflowing or</p> <p>25 there isn't sufficient pick-up, we would then</p>

<p style="text-align: right;">Page 14</p> <p>1 contact, you know, Mr. DaCosta our customer, notify  2 him it is unsafe, unsanitary conditions and he would  3 have to add a frequency day.  4 So, you know, we always suggest  5 obviously the bare minimum is one time per week, but  6 any time there's household waste we always suggest a  7 twice a week pick-up so the garbage is laying around  8 more than a few days. It's common practice for  9 household trash in Bergen County to be picked up two  10 times per week.  11 Q. In that scenario, is the object of what  12 it is that's being done with regard to trash pick-up  13 to keep the enclosure in a sanitary condition?  14 A. Yes. All garbage should be in the  15 receptacle that we provided there. If it isn't  16 sufficient we would add a third pick-up day if  17 necessary, but I don't anticipate that whatsoever.  18 Q. Okay. Do you have a copy of the site  19 plan, sir?  20 A. Yes, I do.  21 Q. So can you explain to the board what  22 your anticipation is about how the two trash  23 receptacles are going to be collected?  24 A. Okay. So can you see me and hear me  25 because I'm looking at the site plan on my computer,</p>	<p style="text-align: right;">Page 16</p> <p>1 That's one of the advantages to the rear  2 loading garbage truck opposed to the front loading  3 garbage truck. The front load garbage truck can pull  4 in but would have to back into on-coming traffic. A  5 rear loading garbage truck would have to back in and  6 then pull out into normal traffic pattern.  7 Q. How will you decide which of those two  8 trucks and which method will be used to enter and  9 exit the property?  10 A. Well, the truck we will be using will be  11 a rear loading garbage truck and like I stated before  12 if it cannot come in through the Broadway county road  13 and pull around the building to the other driveway  14 then the truck would have to come down Highview  15 Avenue in the flow of traffic and then back into the  16 property, empty the receptacles and then it would  17 leave in a normal traffic pattern. So it has two  18 entrances, the property.  19 Q. Right. Mr. Westphal, thank you. I  20 don't think I have any further questions for you,  21 sir.  22 A. Okay. You don't have anything else for  23 me as of now?  24 Q. Not quite. If you can just hang on for  25 a moment because there may be questions from others.</p>
<p style="text-align: right;">Page 15</p> <p>1 that's all.  2 MS. HEMBREE: Yes.  3 A. So the original plan and the plan that  4 we discussed first is to enter the property on  5 Broadway which is the county road and we would pull  6 into the property through that driveway. Make the  7 turn and go towards Highview Avenue where there is  8 enough room for the truck to be in the driveway, but  9 not into the street where the men would exit the  10 vehicle, empty the trash containers put them back  11 into the corral.  12 There is two types of garbage trucks.  13 There is rear loading garbage trucks and front  14 loading garbage trucks, both of them have their  15 advantages and disadvantages.  16 Currently our company runs rear loading  17 garbage truck. So there is also two men on the  18 vehicle at all times. So if they had to back in off  19 Highview Avenue then one of the workers would get  20 out, pull up in a safe manner in the flow of traffic  21 and then back into the property on Highview Avenue,  22 if there was an obstruction from the other driveway  23 or there was a car prohibiting the turn, and then  24 they would exit the property, they would exit the  25 property in the normal flow of traffic.</p>	<p style="text-align: right;">Page 17</p> <p>Westphal - cross - Princiotto  1 A. Absolutely. Thank you.  2 MR. PRINCOTTO: Any board members have  3 questions? I have a few but I will defer to the  4 board.  5 MS. HEMBREE: No, I don't.  6 CHAIRWOMAN MALLEY: Not at this moment.  7 MR. PRINCOTTO: All right. I will go  8 with my questions.  9 CROSS-EXAMINATION BY MR. PRINCOTTO:  10 Q. Did you look at the site plan to  11 determine whether your trucks would have any  12 difficulty coming in off Broadway?  13 A. Give me one second, I'm just pulling it  14 up. So you have the width on Broadway, the intention  15 is to pull into the parking lot and make the turn on  16 the right. Obviously depending on, you know, our  17 biggest concern is if a tenant isn't fully pulled  18 into the parking place. That would be our only  19 concern where we would go to plan B and then enter in  20 off of Highview Avenue.  21 Q. Okay. So I'm looking at the drive  22 aisles and at one point certainly it's showing  23 13 feet and also you see the turning radius there.  24 Have you been to the property physically to look at  25 it?</p>

# Westphal - cross - Board Members

<p style="text-align: right;">Page 18</p> <p>1 A. Yes, I have.</p> <p>2 Q. Okay. And looking at the site plan do</p> <p>3 you, if the cars aren't parked properly do you</p> <p>4 anticipate any difficulty with coming in off Broadway</p> <p>5 and rounding that bend and going to where the</p> <p>6 containers are going to be?</p> <p>7 A. No. Most of our trucks have a very</p> <p>8 tight radius, tight turning radius, excuse me. And</p> <p>9 the minimum lane is 13 feet if that is correct from</p> <p>10 the parking stall to the building, right?</p> <p>11 Q. Actually it's maybe to concrete, I'm not</p> <p>12 sure.</p> <p>13 MR. DaCOSTA: Rear aisle to the edge of</p> <p>14 the parking, to the parking space is 13-foot. That's</p> <p>15 intended.</p> <p>16 A. On the site plan I have just so we are</p> <p>17 on the same page the drive through lane is a minimum</p> <p>18 of 13 feet.</p> <p>19 MR. DaCOSTA: That would be to the edge</p> <p>20 of the parking space. Now if somebody brought in an</p> <p>21 extra large vehicle, you know, that might be, you</p> <p>22 know, that might obstructed, but the plan is that</p> <p>23 would take most vehicles a maintain the 13-foot</p> <p>24 clear.</p> <p>25 MR. PRINCIOTTO: Any other questions?</p>	<p style="text-align: right;">Page 20</p> <p>1 recycling is a single stream recycling which consists</p> <p>2 of paper, cardboard and bottles and cans.</p> <p>3 CHAIRWOMAN MALLEY: What happens I know</p> <p>4 on a number of garbage companies when there is</p> <p>5 overflow or somebody leaves a bag outside of that</p> <p>6 dumpster, do you just leave it there or do you pick</p> <p>7 up after it?</p> <p>8 THE WITNESS: No. It's a common</p> <p>9 practice for us to keep all the enclosures clean and</p> <p>10 neat. And that's one of the benefits for us working</p> <p>11 with the truck that has two men on it. If there are</p> <p>12 any issues they are there to rectify it, take care of</p> <p>13 it, they are not just dumping the containers and</p> <p>14 leaving.</p> <p>15 If it is an ongoing problem we have</p> <p>16 technology in our trucks with tablets where we</p> <p>17 document it that gets auto sent to the customer</p> <p>18 showing them the details of, you know, the continuing</p> <p>19 problem. Could be an issue where, you know, one time</p> <p>20 you have a tenant who moves out or there is an</p> <p>21 overflow of trash out of nowhere. But when it's a</p> <p>22 reoccurring problem we have to correct it right away</p> <p>23 because in our price agreement we propose a pick-up</p> <p>24 for the trash that's inside the containers, nothing</p> <p>25 outside of it. This way we can get a good idea of</p>
<p style="text-align: right;">Page 19</p> <p>1 CHAIRWOMAN MALLEY: Just a question on</p> <p>2 the, when you're taking those dumpsters out you are</p> <p>3 actually rolling them out of the enclosure.</p> <p>4 THE WITNESS: Yes, exactly. So what</p> <p>5 would happen, you know, depending on the property</p> <p>6 owner but the level of service that we discussed with</p> <p>7 Mr. DaCosta is that the men will come to the</p> <p>8 property, open the gate remove the containers, the</p> <p>9 containers are on wheels, they secure them to the</p> <p>10 rear of the truck, empty the trash into the truck and</p> <p>11 then they would return the containers and close the</p> <p>12 gate behind them. It's a very, very common practice</p> <p>13 in our industry.</p> <p>14 CHAIRWOMAN MALLEY: Okay. And then</p> <p>15 there would be twice a week for regular trash and</p> <p>16 then another time for recycling, is that how that</p> <p>17 works.</p> <p>18 THE WITNESS: Yes, that is correct that</p> <p>19 is collected with a separate vehicle.</p> <p>20 CHAIRWOMAN MALLEY: Okay.</p> <p>21 THE WITNESS: The trash would be</p> <p>22 anything that's household trash, anything kitchen</p> <p>23 waste, bathroom, you know, toiletry stuff that, you</p> <p>24 know, obviously doesn't get flushed town the toilet</p> <p>25 but just regular household trash. And then the</p>	<p style="text-align: right;">Page 21</p> <p>1 what we are exactly picking up.</p> <p>2 And it also is an unsafe work</p> <p>3 environment for the men because the garbage should be</p> <p>4 in the containers dumped into the truck. You know,</p> <p>5 we don't want them handpicking bags all the time.</p> <p>6 CHAIRWOMAN MALLEY: Right. And what are</p> <p>7 war hours to pick up?</p> <p>8 THE WITNESS: In a residential area it's</p> <p>9 7 a.m. to 3 p.m. unless there is a different</p> <p>10 ordinance for pick-up in that borough.</p> <p>11 CHAIRWOMAN MALLEY: Okay.</p> <p>12 THE WITNESS: Do you know the hour, the</p> <p>13 ordinance in Woodcliff Lake?</p> <p>14 CHAIRWOMAN MALLEY: I believe they can</p> <p>15 start at 7 a.m. I know a lot of the companies try to</p> <p>16 start much earlier around here.</p> <p>17 THE WITNESS: Yeah, it is a common</p> <p>18 practice.</p> <p>19 CHAIRWOMAN MALLEY: I know.</p> <p>20 MR. NEISS: Not by Westphal Company,</p> <p>21 right?</p> <p>22 THE WITNESS: No.</p> <p>23 CHAIRWOMAN MALLEY: I have not seen</p> <p>24 Westphal out there yet, no. So that's a good thing.</p> <p>25 Anyone else have questions? Anyone else have</p>

DaCosta - cross - Board Members

<p style="text-align: right;">Page 22</p> <p>1 questions for Mr. DaCosta on anything he's gone over 2 so far?</p> <p>3 MS. HEMBREE: No.</p> <p>4 MR. PRINCIOTTO: If there can be some 5 brief testimony on the changes to the landscaping 6 plan.</p> <p>7 MR. DaCOSTA: Sure. Just pulling it up 8 right now. So without knowing the exact location if 9 you look at L-1 which is the landscaping plan, 10 because of the width change to the trash enclosure 11 from the 10-foot original to the 13 and a half foot 12 we had to displace I believe it was two or three of 13 the MP-2 plants which are the compact Northern 14 Bayberry. If I looked at the table correctly. Yes. 15 I'm sorry, so we eliminated two and we 16 shifted in a couple of the others. That's what we 17 did.</p> <p>18 MR. PRINCIOTTO: Okay.</p> <p>19 MR. DaCOSTA: Yes. So overall not 20 terribly impactful change. The only other thing I 21 may note Mr. Princiotto is the mailbox that you see, 22 that isn't something that's actually proposed as part 23 of the project we are showing that because we did 24 install new mailboxes there, we just wanted to show 25 that as a site constraint as we layout the</p>	<p style="text-align: right;">Page 24</p> <p>1 spillage and the lights will be pointed down so as to 2 ensure that they are not a distraction to any other 3 property in the neighborhood.</p> <p>4 MR. DaCOSTA: Yes, full cutoff as noted 5 on the plans. So no light past 0 degrees and 3,500 6 Kelvin color temperature so they don't look that 7 weird blue.</p> <p>8 CHAIRWOMAN MALLEY: And your trash 9 containers are basically attached to, or the 10 enclosure is attached to the building? That's the 11 way I'm reading it.</p> <p>12 MR. DaCOSTA: There would be an actual 13 fence enclosure that would be a buffer between that 14 and the building. It wouldn't be tied directly to 15 the building. It would be pretty snug up against it 16 but there would be a vinyl fence buffer between that 17 and the building.</p> <p>18 CHAIRWOMAN MALLEY: So I guess you will 19 be very careful about rodent control there.</p> <p>20 MR. DaCOSTA: Yes, we also currently 21 have a Rodent Pro at the site who has does rodent 22 control. So that service would be maintained.</p> <p>23 CHAIRWOMAN MALLEY: Okay.</p> <p>24 Any other questions? I'm guessing that 25 Mr. Westphal is done testifying and maybe we want to</p>
<p style="text-align: right;">Page 23</p> <p>1 landscaping.</p> <p>2 MR. PRINCIOTTO: Is that on A-12 or A-13 3 S-1 or L-1.</p> <p>4 MR. DaCOSTA: It's actually on L-1 it 5 shows up, it does not show up on S-1.</p> <p>6 MR. PRINCIOTTO: Can you tell us where 7 it is on L-1, the mailboxes?</p> <p>8 MR. DaCOSTA: Sure. If you're looking 9 at the trash enclosure if you go just to the left 10 past those three shrubs you will see a set of steps 11 and just to the right of that is a new mailbox.</p> <p>12 MR. PRINCIOTTO: I see it. I see it 13 now.</p> <p>14 MR. NEISS: It's actually on both plans.</p> <p>15 MS. HEMBREE: Yeah. Yeah.</p> <p>16 MR. DaCOSTA: Yes, it does. I was 17 looking at the old set. Thank you Arthur.</p> <p>18 MS. HEMBREE: Was there concern before 19 about the lighting? And you have addressed that also 20 haven't you, the lighting on the property.</p> <p>21 MR. DaCOSTA: Yes, I believe it was two 22 meetings ago I thought we discussed that Ms. Hembree.</p> <p>23 MR. NEISS: Actually Mr. Visingardi 24 spoke about that as well. I think in sum and 25 substance his testimony was that there will be no</p>	<p style="text-align: right;">Page 25</p> <p>1 open to the public at this point because then we just 2 have Mr. Burgis left to testify or am I missing 3 somebody?</p> <p>4 MR. PRINCIOTTO: We have -- well, open 5 to the public for questions for Mr. Burgis as well as 6 Mr. John DaCosta's new testimony as well as 7 Mr. Westphal's testimony. So I would recommend that 8 you open to the public for questions of any of the 9 three. I don't see any reason why you have to do it 10 separately.</p> <p>11 CHAIRWOMAN MALLEY: So do it all at 12 once, we'll wait for Mr. Burgis?</p> <p>13 MS. HEMBREE: He's there.</p> <p>14 MR. BURGIS: I'm here.</p> <p>15 CHAIRWOMAN MALLEY: Okay.</p> <p>16 MR. PRINCIOTTO: So we need a motion to 17 open to the public for questions of Mr. DaCosta 18 limited to his new testimony, Mr. Burgis and 19 Mr. Westphal.</p> <p>20 MS. HEMBREE: I so move.</p> <p>21 MS. BUSHELL: Second.</p> <p>22 CLERK SMITH: All in favor?</p> <p>23 ALL MEMBERS: Aye.</p> <p>24 CLERK SMITH: Any opposed? Okay. We 25 are now open to the public. Anybody watching on TV</p>

7 (Pages 22 - 25)

## Cross - Audience Members

Page 26	<p>1 can call in on our borough lines, the number is</p> <p>2 (201) 391-4977, and we are at extension 203.</p> <p>3 We can take one call at a time. And any</p> <p>4 of the public attending on Zoom can raise their hand</p> <p>5 and you will be called on and can address your</p> <p>6 questions to the applicant and his professionals.</p> <p>7 CHAIRWOMAN MALLEY: Meg, there was a</p> <p>8 question whether the site plan was posted somewhere</p> <p>9 which I believe it's on the website.</p> <p>10 CLERK SMITH: It's on the website. Has</p> <p>11 been since I received it. I don't take questions --</p> <p>12 at any of our meetings we don't take questions that</p> <p>13 way, answer questions on the Zoom.</p> <p>14 CHAIRWOMAN MALLEY: Okay.</p> <p>15 CLERK SMITH: But it was posted, yes,</p> <p>16 both S-1 and L-1 were posted. Okay. I have a</p> <p>17 Mr. Deutsch requesting to speak.</p> <p>18 MR. PRINCIOOTTO: Well, it's questions</p> <p>19 right now, not comments, of the three witnesses.</p> <p>20 CLERK SMITH: Correct. Mr. Deutsch can</p> <p>21 you hear us? You have to unmute.</p> <p>22 Can you please state your name and spell</p> <p>23 your last name please so we can get that on record?</p> <p>24 MR. DEUTSCH: Sure. Richard Deutsch,</p> <p>25 D-E-U-T-S-C-H. I live in Cressfield Court.</p>	Page 28
Page 27	<p>1 CLERK SMITH: Thank you.</p> <p>2 MR. DEUTSCH: Sure. I have a question.</p> <p>3 It's about the basic structure I guess. You're going</p> <p>4 to have six apartments, are they limited to one car</p> <p>5 each?</p> <p>6 MR. NEISS: If I may, Mr. Princiotto,</p> <p>7 that's not really the subject of the, of</p> <p>8 Mr. DaCosta's testimony tonight. In fact, no one has</p> <p>9 discussed parking. That was all at a prior meeting.</p> <p>10 MR. PRINCIOOTTO: I have to agree with</p> <p>11 you. I'm sorry, Mr. Deutsch, the testimony for</p> <p>12 Mr. DaCosta or your questions rather, have to relate</p> <p>13 to his testimony tonight because he was already</p> <p>14 cross-examined with regard to the site plan as well</p> <p>15 as all the other witnesses.</p> <p>16 So he didn't testify about the parking</p> <p>17 or the number of spaces or vehicles per apartment.</p> <p>18 MR. DEUTSCH: Who can I ask that</p> <p>19 question of?</p> <p>20 MR. PRINCIOOTTO: Well, that was a</p> <p>21 question you probably should have asked at one of the</p> <p>22 prior meetings.</p> <p>23 MR. DaCOSTA: Mr. Princiotto, if I may,</p> <p>24 there is a zoning schedule on the drawings that is</p> <p>25 publicly available and shows compliance with the code</p>	Page 29
	<p>1 for parking.</p> <p>2 MR. PRINCIOOTTO: In other words,</p> <p>3 Mr. Deutsch, they are not seeking a variance for</p> <p>4 parking. They are compliant with regard to parking.</p> <p>5 MR. DEUTSCH: Okay. Thank you.</p> <p>6 CLERK SMITH: Okay I have a Mr. John</p> <p>7 Mayo. Mr. Mayo, can you hear us.</p> <p>8 MR. MAYO: Yes, I can.</p> <p>9 CLERK SMITH: Can you please spell your</p> <p>10 name.</p> <p>11 MR. MAYO: John, J-O-H-N. Mayo,</p> <p>12 M-A-Y-O.</p> <p>13 CLERK SMITH: Thank you.</p> <p>14 MR. PRINCIOOTTO: And your address.</p> <p>15 MR. MAYO: 11 Highview Ave, Woodcliff</p> <p>16 Lake. And I am sorry but I think my question was</p> <p>17 answered. And I found the updated plan and as to the</p> <p>18 testimony so far I do not have a question. I am</p> <p>19 sorry for interrupting.</p> <p>20 CHAIRWOMAN MALLEY: That's okay. Thank</p> <p>21 you.</p> <p>22 CLERK SMITH: And I have a Mr. Alex</p> <p>23 Cuoto wishing to address.</p> <p>24 MR. COUTO: Hi, good evening everyone.</p> <p>25 Thank you for all the work you do here. Much</p>	



# Cross - Audience Members

<p style="text-align: right;">Page 30</p> <p>1 MR. BURGIS: No, I'm not.</p> <p>2 MR. COUTO: Okay. So it's the new</p> <p>3 proposed, Ms. Leheny can -- it's 10 units, maximum 10</p> <p>4 units per acre. So if I have my math right, you are</p> <p>5 proposing six units on .66 acres so that works out</p> <p>6 16.39 units per acre.</p> <p>7 MR. BURGIS: That's correct.</p> <p>8 MR. COUTO: Correct. Okay. Are you</p> <p>9 aware of the requirements also proposed requirements</p> <p>10 for the first floor use for multifamily dwellings</p> <p>11 what was the recommendation?</p> <p>12 MR. BURGIS: I believe at least in one</p> <p>13 of the drafts I saw I believe it was retail use.</p> <p>14 MR. NEISS: I'm sorry, Mr. Couto -- this</p> <p>15 is Arthur Neiss, I just want to interrupt for a</p> <p>16 second, please forgive me. But you're asking</p> <p>17 Mr. Burgis to testify about a master plan that he has</p> <p>18 not seen. And it's really, it's not really fair to</p> <p>19 him to ask questions about and then base your</p> <p>20 questions on material that's in -- I'm not even aware</p> <p>21 there was a, that the governing body has adopted the</p> <p>22 master plan or that the planning board has adopted a</p> <p>23 new master plan.</p> <p>24 And I would simply say, Mr. Princiotto,</p> <p>25 you know, the time of the application rule is really</p>	<p style="text-align: right;">Page 32</p> <p>1 MR. COUTO: Yeah, the property's</p> <p>2 approved for a carpet store and there is no other</p> <p>3 variances, there is no variances for three</p> <p>4 apartments. It was only approved for one --</p> <p>5 MR. BURGIS: Preexisting nonconforming</p> <p>6 use.</p> <p>7 MR. COUTO: Okay. So the other</p> <p>8 question, so you asking to approve six times the</p> <p>9 standard which will be 16.39 units per acre; correct?</p> <p>10 MR. BURGIS: That is correct.</p> <p>11 MR. COUTO: Now, how will that impact</p> <p>12 188, it's 3.6 acres so if we go from the standard</p> <p>13 proposed by the town which is 10 units per acre to</p> <p>14 16.4, from my calculation that's 23 additional</p> <p>15 apartments two stores away from me. Is that correct</p> <p>16 or am I wrong?</p> <p>17 MR. KAUFMAN: We are not reviewing 188</p> <p>18 tonight. That is not what this meeting is about nor</p> <p>19 the questioning that should be happening right now.</p> <p>20 This is about a single address; correct?</p> <p>21 MR. COUTO: The question is the legal</p> <p>22 precedent that it might be set by --</p> <p>23 MR. PRINCIOTTO: You can ask him about</p> <p>24 whether or not if a variance would be granted here,</p> <p>25 you know, is binding or a precedent for other future</p>
<p style="text-align: right;">Page 31</p> <p>1 what controls here in any event.</p> <p>2 MR. COUTO: Okay. So if we go to the</p> <p>3 time that the application rule how many, what is the</p> <p>4 density allowed on R-15 where property sits?</p> <p>5 MR. BURGIS: The R-15 zone permits a</p> <p>6 single-family dwelling on a 15,000-square foot lot so</p> <p>7 basically it's 2.9 units to the acre. I testified to</p> <p>8 that.</p> <p>9 MR. COUTO: Okay. How many times from</p> <p>10 your existing what are you, that property is approved</p> <p>11 for, how many multiple times are you requesting? Two</p> <p>12 times, three times, six times.</p> <p>13 MR. BURGIS: We are proposing six</p> <p>14 dwellings and the ordinance would permit a</p> <p>15 single-family dwelling on the site.</p> <p>16 MR. COUTO: So you are requesting six</p> <p>17 times what is the property is approved for; correct?</p> <p>18 MR. BURGIS: This is all, I testified to</p> <p>19 all this at the previous meeting.</p> <p>20 MR. COUTO: Okay. So I ask did -- OPRA</p> <p>21 on the variances on the property, so the property are</p> <p>22 you aware what else the property is approved for.</p> <p>23 MR. BURGIS: It's not approved for</p> <p>24 anything other than what is permitted, what is built</p> <p>25 on the site today.</p>	<p style="text-align: right;">Page 33</p> <p>1 developments. I think he already covered that.</p> <p>2 MR. BURGIS: I did.</p> <p>3 MR. PRINCIOTTO: But if you want to ask</p> <p>4 him one more time you can.</p> <p>5 MR. COUTO: I will ask one more time.</p> <p>6 So if the variance get's approved by this property</p> <p>7 how can the town protect itself, it doesn't get used</p> <p>8 for other properties for instance 188.</p> <p>9 MR. BURGIS: As I have indicated I</p> <p>10 testified and addressed this previously but I will</p> <p>11 repeat what I had said then.</p> <p>12 There are two or three issues that you</p> <p>13 will need to look at. One is the fact that there is</p> <p>14 substantial case law that indicates that each and</p> <p>15 every development application has to stand on its own</p> <p>16 merits.</p> <p>17 But in particular with respect to this</p> <p>18 site, this site is very uniquely situated, it is</p> <p>19 uniquely developed, and I think you would be hard</p> <p>20 pressed to find a similar building with a similar</p> <p>21 content on a similarly sized site with the</p> <p>22 characteristics that this site has anywhere else in</p> <p>23 the municipality at the kind of location that this</p> <p>24 site is located at.</p> <p>25 And when I addressed this in my previous</p>

# Cross - Audience Members

<p style="text-align: right;">Page 34</p> <p>1 testimony I went into some detail on each of those  2 issues. I also pointed out that one typical concern  3 is if you are overturning -- where there is a  4 variance approved that it change the character of the  5 areas or the zone in which it is located to such an  6 extent that you would be effectively usurp the powers  7 of the governing body.  8 And in response to that kind of a  9 question I pointed out that over two-thirds of the  10 municipality is in the R-15 zone. So by taking a  11 third acre lot out of that large zone and hopefully  12 approving it for six dwelling units does not  13 represent a substantial impairment to the intent of  14 that zone or the character of the zone where  15 95 percent of the houses in the municipality are  16 single family dwellings. By adding three additional  17 apartments on a site that already contains three  18 apartments really does not do any significant or  19 substantial modification to the R-15 zone.  20 I hope that answers your question.  21 MR. COUTO: Mr. Burgis, are you aware  22 that there is a property about three properties north  23 of 216 that's 5 acres?  24 MR. BURGIS: Yes.  25 MR. COUTO: So right now by the, right</p>	<p style="text-align: right;">Page 36</p> <p>1 addition to that there is all those other benefits  2 that I had mentioned at a previous meeting.  3 One regarded the enhanced architectural  4 character of the site of the development that will  5 result from this proposal, the fact that we are  6 replacing all that paved surface in front of the site  7 at the intersection today with landscape amenity. We  8 are also improving the onsite circulation system.  9 If you have been to the property  10 Mr. Couto you would know that as I think I used the  11 words at the last meeting it's pretty much Wild West  12 City when you enter this property because there is no  13 defined curb cut. The entire linear frontage of the  14 site is runs in an open area where a car can enter at  15 any location on site. We are defining the access  16 point now at a very particular location and in a very  17 restricted way.  18 In addition to that, and very  19 significantly, we are bringing back a building to its  20 original historic grandeur. And there is a lot of  21 testimony about that as well so I'm not going to  22 repeat all that again for the board or the public.  23 MR. COUTO: Okay. I have historic  24 grandeur from what I recall involved a store on the  25 ground floor and people living upstairs, that is the</p>
<p style="text-align: right;">Page 35</p> <p>1 now from my calculations if this gets approved the  2 property could get also get improvement, instead of  3 ten apartments they could ask for 80.  4 MR. BURGIS: I would not agree with  5 that. I would say that development, such a  6 development application would have to go through the  7 same scrutiny that this application has gone through.  8 The applicant would have to show what  9 special reasons exist that warrant the use variance  10 to be granted there. The applicant would have to  11 show that there is a substantial detriment to the  12 public good or no substantial impairment to the  13 intent of the plan, the master plan.  14 One of the interesting things about this  15 particular property is that it is, in fact, developed  16 for multi-family residential use plus nonconforming  17 commercial use. One of the virtues of this  18 application is that we are, while we are adding three  19 additional dwelling units, we are eliminating about  20 2,400 square feet of non permitted retail use on the  21 property.  22 While we are doing that we are reducing  23 the parking requirements on site from 20 to 12. So  24 there is a significant reduction in anticipated  25 number of vehicles that will be placed on site. In</p>	<p style="text-align: right;">Page 37</p> <p>1 design.  2 MR. BURGIS: That is not correct. I'm  3 talking about going back to 1870 and the  4 architectural design of the building. The  5 architectural design of the building was an  6 Italianate architectural style with a cupola. We are  7 bringing back that architectural style to the site  8 and as you had heard from the architect and the  9 applicant himself, there are significant enhancements  10 to the building itself to make it much more  11 aesthetically appealing than it looks today.  12 And if you recall my testimony at all I  13 had pointed out, I don't think there is a person on  14 the zoom call that would suggest the way that  15 building looks today is very attractive. I would  16 also suggest I don't think there is a person on the  17 zoom call tonight that wouldn't agree that the  18 aesthetic enhancements as reflected by the  19 architectural design represents a substantial  20 improvement to the building in contract to what it  21 looks like today.  22 MR. COUTO: First I want to thank  23 Mr. DaCosta, the design is beautiful. I would like  24 to support this, your application, if you could in  25 any way modify your application three to four</p>

# Cross - Audience Members

<p style="text-align: right;">Page 38</p> <p>1 apartments and any type of the business on ground  2 floor I would support it.  3 MR. PRINCIOTTO: Mr. Couto, that's a  4 comment. Just questions right now. We need to move  5 this application along.  6 MR. COUTO: Okay. Thank you very much.  7 That's all the questions I have. Thank you very  8 much.  9 MR. BURGIS: Thank you.  10 CLERK SMITH: I have a Ms. Ann Marie  11 Borrelli wishing to address the board.  12 MS. BORRELLI: Hi. Good evening  13 everyone.  14 CLERK SMITH: Please spell your last  15 name.  16 MS. BORRELLI: Last name is  17 B-O-R-R-E-L-L-I and I'm on Cressfield Court. First  18 of all, I have a question for Mr. Westphal. Did I  19 pronounce that correctly? I hope so.  20 MR. WESTPHAL: Yes, Ms. Borrelli, that  21 is correct.  22 MS. BORRELLI: Great. Thank you. I  23 have a question. You had said, I don't know if I  24 caught this correctly, you had said that if a truck  25 pulls in off of Broadway and pulls into the parking</p>	<p style="text-align: right;">Page 40</p> <p>1 maneuver or not?  2 MR. WESTPHAL: Yeah, it's more so  3 getting set up with the site, getting familiarity  4 with, you know, some of the problems or challenges  5 and if it seems to be an issue the driver would make  6 the determination of what would be the first, you  7 know, the first case scenario to access the property  8 and the safest way to access the property. If for  9 some reason that they needed to use Highview Avenue,  10 I know there are residential streets behind it, you  11 know, the truck would have to stay on the actual  12 truck route roads.  13 MS. BORRELLI: Okay. All right. So the  14 potential of it having to back onto Broadway would be  15 minimal.  16 MR. WESTPHAL: Yeah, no, it would not  17 and if it was, like I stated before, if there is an  18 issue or something happened there is two men on the  19 truck where, you know, they could safely back onto,  20 its a common practice, you know, we service many  21 municipalities in the area, they have to back down  22 dead ends to access trash on both sides of the  23 street, you know, turn around in cul-de-sacs, you  24 know, everything. We service the Borough of Oradell,  25 Montvale, New Jersey and Westwood, New Jersey. It's</p>
<p style="text-align: right;">Page 39</p> <p>1 into that driveway, and then has to kind of bear  2 around to go right towards Highview; correct?  3 MR. WESTPHAL: Yes, that's correct.  4 MS. BORRELLI: And then I think you said  5 that if a car was not parked correctly, like if it  6 wasn't deep enough or if it was a larger car the  7 truck would have difficulty maneuvering around;  8 correct? Did you say that?  9 MR. WESTPHAL: Maneuvering around the  10 bend of the corner.  11 MS. BORRELLI: Okay. And then you also  12 said it might have to back out?  13 MR. WESTPHAL: No, no, the truck would  14 not pull in unless the access is clear the driver  15 would be able to see it. And then we would go to  16 plan B which is come down Highview Avenue and back  17 into the driveway.  18 MS. BORRELLI: Okay. So, but the truck,  19 would the truck be going north on Broadway?  20 MR. WESTPHAL: Depending on the local  21 truck routes. I'd have to research that. I can't  22 answer that exactly at this time.  23 MS. BORRELLI: So the truck would see  24 that from Broadway, the truck, the driver could make  25 the determination whether they would be able to</p>	<p style="text-align: right;">Page 41</p> <p>1 a very common practice for our drivers are trained  2 in.  3 MS. BORRELLI: And you're familiar with  4 that intersection, it's an irregular intersection.  5 MR. WESTPHAL: I'm very familiar with  6 it. We've picked up for Suez across the street, for  7 United Water, we provide all the containers in the  8 reservoir right there, I am very familiar with this,  9 I have driven a truck there myself.  10 MS. BORRELLI: Okay. All right. That's  11 good to know.  12 How about, I have a question for,  13 Chairwoman, excuse me, I don't know what your title  14 is, I'm sorry, but Ms. Hembree. Ms. Hembree, I have  15 a question for you.  16 First of all I wanted to say that that  17 was a beautiful, it was very nice seeing that  18 historic picture that you showed in the last meeting.  19 That was very, very nice, it was nice to see that and  20 I appreciate the, I look forward to Pascack Press to  21 look at the old time pictures. I find that very, I  22 find it something nice to see.  23 But Ms. Hembree, did you notice in that  24 picture that something was missing in that picture?  25 MS. HEMBREE: Which one, which picture</p>

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<p style="text-align: right;">Page 42</p> <p>1 are you referring to?</p> <p>2 MS. BORRELLI: The picture that you</p> <p>3 showed the old building from years ago.</p> <p>4 MS. HEMBREE: No, I didn't miss, what?</p> <p>5 No, I guess not. What was missing?</p> <p>6 MS. BORRELLI: What was missing were</p> <p>7 cars. There were cars missing because back then they</p> <p>8 didn't have all that traffic. But anyway I thought</p> <p>9 that was a cute observation. But I have a question</p> <p>10 for Mr. -- thank you, Ms. Hembree, thank you. I just</p> <p>11 thought that was cute.</p> <p>12 Anyway I have a question for Mr. Burgis.</p> <p>13 Mr. Burgis, you prepared a Broadway corridor study in</p> <p>14 2008 that you presented to Woodcliff Lake; correct?</p> <p>15 Well your company did, Burgis Associates; correct?</p> <p>16 MR. BURGIS: That's correct.</p> <p>17 MS. BORRELLI: Okay. All right. And in</p> <p>18 that Broadway corridor study you had stated some</p> <p>19 facts and percentages and so do you recall that you</p> <p>20 had stated that 50 percent of the national market for</p> <p>21 infill and mixed use, 50 percent were young singles</p> <p>22 and couple. Do you recall that?</p> <p>23 MR. BURGIS: I don't but I will take</p> <p>24 your word for it.</p> <p>25 MS. BORRELLI: I'm taking it right from</p>	<p style="text-align: right;">Page 44</p> <p>1 the planning board or the council was contemplating a</p> <p>2 lot more commercial development along Broadway, but</p> <p>3 the fact remains, well a couple facts here. One is</p> <p>4 there has been a significant adjustment in planning</p> <p>5 thinking about creating multi-family housing near</p> <p>6 train stations and that has become much more popular</p> <p>7 and prevalent and we talked about this at the last</p> <p>8 meeting if I'm not mistaken with you when this</p> <p>9 question came up.</p> <p>10 And in this particular site, you know,</p> <p>11 we are directly across the street from the train</p> <p>12 station, although we are only talking about three</p> <p>13 additional dwelling units, it does, the site is</p> <p>14 reflective of that approach that you could easily</p> <p>15 accommodate three additional dwelling units at this</p> <p>16 location and not have a significant impact on the</p> <p>17 surrounding area.</p> <p>18 In fact, it's a lesser impact than if</p> <p>19 the retail space was redeveloped for some additional</p> <p>20 retail space and, for example, I forget whether it</p> <p>21 was you or someone else at the last meeting suggested</p> <p>22 that that 2,400 square feet could be redeveloped as a</p> <p>23 cafe. Well, while there is a lot of concern about</p> <p>24 traffic a cafe at this location would generate a</p> <p>25 significantly greater volume of traffic than the</p>
<p style="text-align: right;">Page 43</p> <p>1 your documentation.</p> <p>2 MR. BURGIS: Okay. That's fine.</p> <p>3 MS. BORRELLI: And I'm not changing</p> <p>4 anything. I'm taking exactly word-for-word. Okay.</p> <p>5 And also the fast growing households were young</p> <p>6 professionals.</p> <p>7 MR. BURGIS: Yes.</p> <p>8 MS. BORRELLI: And that 40 percent of</p> <p>9 renters choose lifestyle, so they are looking for</p> <p>10 someplace nice to life in, a nice environment?</p> <p>11 MR. BURGIS: Yes.</p> <p>12 MS. BORRELLI: Okay. All right. Now</p> <p>13 you also used the term "new urbanism." You used that</p> <p>14 term in your documentation in this Broadway corridor</p> <p>15 study this term called "new urbanism," and the,</p> <p>16 correct me if I'm incorrect, but new urbanism states</p> <p>17 that actually calls for higher density in an area so</p> <p>18 that people can just walk to the amenities, they can</p> <p>19 walk to schools, they can walk to stores and so to</p> <p>20 have people walk more and, therefore, it actually</p> <p>21 creates a higher density area; is that correct, on</p> <p>22 new urbanism is that the --</p> <p>23 MR. BURGIS: That is part of it. Also</p> <p>24 you could add the train station to that. My</p> <p>25 recollection at the time, and I forget whether it was</p>	<p style="text-align: right;">Page 45</p> <p>1 three additional apartments that we are talking</p> <p>2 about.</p> <p>3 So as I said previously, planning is a</p> <p>4 balance of competing interests. And here we are</p> <p>5 talking about the merits of these three developing</p> <p>6 units, coupled with the significant site improvements</p> <p>7 we touched upon just a few minutes ago, against the</p> <p>8 idea that at grade retail in this building should be</p> <p>9 considered to allow to continue. And I think for</p> <p>10 many reasons it's a significant positive feature that</p> <p>11 we are not continuing the possibility of at grade</p> <p>12 retail occurring here, by allowing the building to</p> <p>13 convert to these three additional apartments has a</p> <p>14 much better and lessor impact in the community and</p> <p>15 surroundings than if that other option were to occur.</p> <p>16 MS. BORRELLI: I agree with you the</p> <p>17 building is, the proposed design is beautiful and it</p> <p>18 definitely will --</p> <p>19 MR. PRINCIOTTO: Ms. Borrelli, could,</p> <p>20 just question.</p> <p>21 MS. BORRELLI: I have a question. Okay.</p> <p>22 So my question is, when you talk about the new</p> <p>23 urbanism and the, you know, having this high density</p> <p>24 in this particular location, but there is no</p> <p>25 amenities, there's no place for people to walk.</p>

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<p style="text-align: right;">Page 46</p> <p>1 There is like there is really nothing close by for  2 people --  3 MR. PRINCIOTTO: Ms. Borrelli, question  4 please, just the question.  5 MS. BORRELLI: Okay. All right.  6 Actually I have a question for Mr. DaCosta then. I  7 have a question. Based on Mr. Burgis's comments and  8 agreeing with his facts from his study that the  9 fastest growing household is young professionals and  10 looking for better lifestyle and the design that you  11 have is a gorgeous building, it's actually so  12 beautiful and thank you for that design, but  13 wouldn't, wouldn't you, would you consider possibly  14 attracting people who will take the train to work  15 possibly to the city, like somebody on Wall Street,  16 and having maybe two luxury apartments rather than  17 six small apartments? Would you consider, you know,  18 kind of compromising on the density because obviously  19 that is a major concern --  20 MR. PRINCIOTTO: Ms. Borrelli,  21 Mr. DaCosta's testimony tonight, okay, he was already  22 cross examined. That was before. The questions  23 tonight have to relate to what he testified to about  24 tonight which was the change in the site plan with  25 regard to garbage pick-up and a slight change in the</p>	<p style="text-align: right;">Page 48</p> <p>1 question to you is, a couple questions. If your  2 drivers consistently see backups that they cannot  3 pull in from Broadway, would you change the pickup to  4 always picking up on Highview?  5 MR. WESTPHAL: No, because the  6 depending, you know the trucks that we have follow  7 all local, county, state, guidelines and traffic  8 flow. And if we deem a specific pickup to be unsafe  9 we would potentially push it back into a later time  10 potentially after rush hour. You know, an account  11 like this we would not send the truck where it was  12 rush hour traffic, school time or anything like that  13 because it's extra dangerous at this location.  14 MS. APPELLE: Yes, that's good  15 forethought one of the things going to --  16 MR. WESTPHAL: You know, potentially  17 especially in a residential development we don't want  18 the truck there waking anyone up, or neighbors or  19 anything, be a nuisance to the, you know, the actual  20 property owner and the surrounding property owners.  21 We like to run our business in silence, you don't  22 know about us, we move about the streets, collect the  23 trash and go about our day.  24 MS. APPELLE: Well, that's always good  25 to hear. I hope to find that to work. So from what</p>
<p style="text-align: right;">Page 47</p> <p>1 landscaping plan. So if you have questions about  2 what he testified to tonight, you can ask him those  3 questions.  4 Otherwise, the questioning of him was  5 closed because you were already given an opportunity  6 to ask him questions about his prior testimony.  7 MS. BORRELLI: Okay. Well, thank you  8 very much.  9 MR. PRINCIOTTO: Okay. Sorry.  10 CLERK SMITH: Okay. I have a Ms.  11 Veronica Appelle.  12 MS. APPELLE: Yes, thank you.  13 CLERK SMITH: Can you please spell your  14 last name?  15 MS. APPELLE: Yes, A-P-P-E-L-L-E. 43  16 Cressfield Court. This question is for Mr. Westphal.  17 You said you are very familiar with that  18 intersection because you pick up at the reservoir.  19 So you also, are you also very familiar about because  20 of that light the unusual way the road goes, there is  21 a lot of back up of traffic on Broadway.  22 MR. WESTPHAL: Yes, I'm familiar with  23 back up of traffic especially at a train  24 intersection; correct.  25 MS. APPELLE: Absolutely. Okay. My</p>	<p style="text-align: right;">Page 49</p> <p>1 you said, I think you said so your trucks will be  2 coming in three times a week minimum?  3 MR. WESTPHAL: No, minimum twice per  4 week.  5 MS. APPELLE: I thought --  6 MR. WESTPHAL: For trash and recycle or  7 just trash.  8 MS. APPELLE: Trash and recycling  9 everything together.  10 MR. WESTPHAL: Minimum of three pickups  11 per week yes; correct. Twice for trash, once for  12 recycling.  13 MS. APPELLE: So that again brings me  14 to, you know, people's homes are right next to this  15 site and across the street.  16 MR. PRINCIOTTO: Is there a question?  17 MS. APPELLE: Here it is, Sal, sorry.  18 How many decibels or how much noise does your truck  19 generate when it dumps the stuff into the truck?  20 MR. WESTPHAL: I would have to ask how  21 many times does your trash and recycling get picked  22 up as a residential homeowner in the Borough of  23 Woodcliff Lake?  24 MS. APPELLE: Okay. So the trash gets  25 picked up once a week and the recycling gets picked</p>

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<p style="text-align: right;">Page 50</p> <p>1 up alternate times once a week.</p> <p>2 MR. WESTPHAL: Twice a week pickup.</p> <p>3 MS. APPELLE: Yes.</p> <p>4 MR. WESTPHAL: It is most common</p> <p>5 practice for most communities to get trash picked up</p> <p>6 twice per week.</p> <p>7 MS. APPELLE: Thank goodness that's not</p> <p>8 here.</p> <p>9 MR. PRINCIOTTO: Okay.</p> <p>10 MS. APPELLE: Okay. Thank you very</p> <p>11 much. This question is for Mr. DaCosta. I guess you</p> <p>12 must have said this last time because if you get all</p> <p>13 the variances and everything that you are asking for,</p> <p>14 and the doubling of the rental apartments that are</p> <p>15 presently there, one of them will be affordable</p> <p>16 15 percent, right?</p> <p>17 MR. PRINCIOTTO: He didn't testify about</p> <p>18 affordable housing tonight at all. So you can't ask</p> <p>19 him about that.</p> <p>20 MR. BURGIS: If I may, I could help</p> <p>21 address that question and resolve it I think. There</p> <p>22 is no requirement for this development to have an</p> <p>23 affordable unit. And the reason for that is the</p> <p>24 council on affordable housing regulations stipulate</p> <p>25 that where you have five or more units then you are</p>	<p style="text-align: right;">Page 52</p> <p>1 MR. MAYO: A couple questions for</p> <p>2 Mr. DaCosta. Mr. DaCosta, I think you know I sent</p> <p>3 the board of a letter of some concerns I have being</p> <p>4 your neighbor with headlight intrusion and light</p> <p>5 intrusion. And a few other -- and disturbance of</p> <p>6 roots in some is very large trees.</p> <p>7 You said the site plan and the landscape</p> <p>8 plan have been revised. Have any of those concerns</p> <p>9 been considered in those revisions?</p> <p>10 MR. DaCOSTA: The two trees, hi,</p> <p>11 Mr. Mayo. The two trees on your property that we</p> <p>12 agreed or I have agreed to remove, they are not on</p> <p>13 the plan. I don't have that. I apologize. I don't</p> <p>14 think we had them located. That's something we could</p> <p>15 add.</p> <p>16 And then the adjustment I think you're</p> <p>17 talking about the plant east, the trees, the shrubs</p> <p>18 that we were to put in place and I thought we had</p> <p>19 addressed that in an earlier revision or we complied</p> <p>20 with that in an earlier revision. That was the</p> <p>21 arborvitaes on the eastern property line on the upper</p> <p>22 part of the retaining wall; correct?</p> <p>23 MR. MAYO: Correct.</p> <p>24 MR. DaCOSTA: Yeah.</p> <p>25 MR. MAYO: And what about perhaps a</p>
<p style="text-align: right;">Page 51</p> <p>1 obligated to have a set aside for affordable, but</p> <p>2 since we are only proposing three new units we are</p> <p>3 not obligated to do so.</p> <p>4 MS. APPELLE: Wow. That's very</p> <p>5 interesting. A good go around. All right,</p> <p>6 gentlemen.</p> <p>7 MR. BURGIS: It's not a go around. It's</p> <p>8 the COWA regulations itself of a stipulation of</p> <p>9 new --</p> <p>10 MS. APPELLE: They were not conforming,</p> <p>11 Mr. Burgis --</p> <p>12 MR. PRINCIOTTO: Okay.</p> <p>13 MS. APPELLE: Thank you. I'm sorry,</p> <p>14 Sal. Thank you all very much for your time and</p> <p>15 effort. I appreciate it.</p> <p>16 CHAIRWOMAN MALLEY: Meg, do we have</p> <p>17 anybody else?</p> <p>18 CLERK SMITH: I have Mr. Mayo raising</p> <p>19 his hand again. Is it okay to let him speak.</p> <p>20 MR. PRINCIOTTO: Actually he didn't ask</p> <p>21 a question before.</p> <p>22 CLERK SMITH: Okay. Let me unmute him.</p> <p>23 Mr. Mayo can you hear us.</p> <p>24 MR. MAYO: Yes I can, hello.</p> <p>25 CLERK SMITH: Okay.</p>	<p style="text-align: right;">Page 53</p> <p>1 fence for cars parking and curb stops for cars</p> <p>2 parking right up against the parking, the property</p> <p>3 line where that 8-foot buffer is required.</p> <p>4 MR. DaCOSTA: Curb stops we, it looks</p> <p>5 like we have curbs. You are talking about --</p> <p>6 MR. MAYO: Okay. That's fine, curbs,</p> <p>7 something to prevent the cars from driving into the</p> <p>8 fence if they are proposing a fence?</p> <p>9 MR. DaCOSTA: Yeah, when you and I had</p> <p>10 spoke we agreed to put up a fence there and I have no</p> <p>11 concerns with doing, I could add that to the plan as</p> <p>12 part of the construction drawings.</p> <p>13 MR. MAYO: Great. Thank you very much.</p> <p>14 MR. DaCOSTA: And that would be on the</p> <p>15 parking line just because of the way that we've laid</p> <p>16 out the parking --</p> <p>17 MR. MAYO: That's what I understand.</p> <p>18 MR. PRINCIOTTO: Just to be clear</p> <p>19 Mr. DaCosta, did you say that you are going to remove</p> <p>20 two trees on Mr. Mayo's property?</p> <p>21 MR. DaCOSTA: I will be, yeah.</p> <p>22 MR. PRINCIOTTO: Okay. You would have</p> <p>23 to get a permit for that and approval from the shade</p> <p>24 tree committee.</p> <p>25 MR. DaCOSTA: Completely aware. I have</p>

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<p style="text-align: right;">Page 54</p> <p>1 already spoken with Lionel.</p> <p>2 MS. APPELLE: Mr. DaCosta, just the</p> <p>3 finished side of the fence would face my property?</p> <p>4 MR. DaCOSTA: What I would like to do is</p> <p>5 have it match the rest of the vinyl fencing you have</p> <p>6 on site and so both sides would be just as appealing.</p> <p>7 MR. MAYO: That's great. Thank you.</p> <p>8 MR. DaCOSTA: You got it.</p> <p>9 CLERK SMITH: I do not have anybody else</p> <p>10 rising their hand at this time and I have had no</p> <p>11 phone calls.</p> <p>12 MR. PRINCOTTO: We need a motion to</p> <p>13 close to the public for questioning of the witnesses.</p> <p>14 CHAIRWOMAN MALLEY: Barbara.</p> <p>15 MR. KAUFMAN: Second.</p> <p>16 CHAIRWOMAN MALLEY: All in favor?</p> <p>17 Anyone opposed? Okay. We are closed to the public.</p> <p>18 Okay.</p> <p>19 MR. PRINCOTTO: Okay. First I'll ask</p> <p>20 our engineer Mr. Kurus, do you have any questions or</p> <p>21 comments about the revised site plan, landscaping</p> <p>22 plan.</p> <p>23 MR. KURUS: I don't. I think it's all</p> <p>24 been covered. We have had extensive testimony on the</p> <p>25 trash pick-up.</p>	<p style="text-align: right;">Page 56</p> <p>1 MS. LEHENY: Sal, am I sworn in?</p> <p>2 MR. PRINCOTTO: Yup, I will swear you</p> <p>3 in. Please raise your right hand, state your full</p> <p>4 name for the record please.</p> <p>5 MS. LEHENY: Elizabeth Leheny.</p> <p>6 MR. PRINCOTTO: Do you swear to tell</p> <p>7 the truth and nothing but the truth so help you God?</p> <p>8 MS. LEHENY: I do.</p> <p>9 DIRECT EXAMINATION BY MR. PRINCOTTO:</p> <p>10 Q. Can you give new board members and the</p> <p>11 public the benefit of your qualifications?</p> <p>12 A. Yes, sure. I have a Master's degree in</p> <p>13 City Planning and in Historic Preservation. I have</p> <p>14 been a practicing planner for about 20 years. I have</p> <p>15 a, I'm a licensed professional planner in the state</p> <p>16 of New Jersey. I am member of the American Institute</p> <p>17 of Certified Planners. I have worked in Woodcliff</p> <p>18 Lake for about a year and most recently, you know,</p> <p>19 finished up the master plan process, but I also work</p> <p>20 on behalf of zoning and planning boards in</p> <p>21 municipalities throughout the state.</p> <p>22 MR. PRINCOTTO: Do you have, Mr. Neiss,</p> <p>23 do you have any questions on the qualifications of</p> <p>24 Ms. Leheny?</p> <p>25 MR. NEISS: Not a single question at</p>
<p style="text-align: right;">Page 55</p> <p>1 With respect to the landscaping I think</p> <p>2 we heard testimony about additional arborvitae and</p> <p>3 plantings along the property line contingent with the</p> <p>4 neighbor, as long as that's on the record, I don't</p> <p>5 have any additional questions or comments.</p> <p>6 MR. DaCOSTA: Just one item there on the</p> <p>7 arborvitae on the eastern border there we have the</p> <p>8 JN which is the shared juniper. So we do show that.</p> <p>9 It's not shown as pictorially as some of the others</p> <p>10 but there is a note there just to keep the plan</p> <p>11 uncluttered.</p> <p>12 MR. KURUS: Yeah, but I guess those are</p> <p>13 six inch to 12-inch. I think, I thought the</p> <p>14 testimony was something a little more substantial,</p> <p>15 but we can, you know, we can have your landscape</p> <p>16 architect to work that out with our landscape</p> <p>17 architect to come up with the most appropriate</p> <p>18 planting for that area.</p> <p>19 MR. DaCOSTA: Taller arborvitae. That</p> <p>20 sounds fine. I'm making notes too for my engineer.</p> <p>21 MR. KURUS: Okay.</p> <p>22 MR. PRINCOTTO: Okay. We have the</p> <p>23 borough's planner here tonight as well. Elizabeth</p> <p>24 Leheny. She will testify about her comments to the</p> <p>25 board and public.</p>	<p style="text-align: right;">Page 57</p> <p>1 all.</p> <p>2 MR. PRINCOTTO: I didn't think so.</p> <p>3 A. Okay. All right. So you know just to</p> <p>4 begin, before the board deliberates, Mr. Princiotto</p> <p>5 and I thought it would be helpful to go over the</p> <p>6 statutory criteria that the board should consider in</p> <p>7 its evaluation of this application specifically for</p> <p>8 the use variance because, you know, there are some</p> <p>9 bulk variances that are required, but if the board</p> <p>10 doesn't grant the use variances then the bulk</p> <p>11 variances would go away.</p> <p>12 You know, I have to stress that</p> <p>13 ultimately the decision regarding this application is</p> <p>14 the board's and the board's alone. And this is</p> <p>15 merely to offer some guidance to the board members</p> <p>16 specifically for maybe some newer members who haven't</p> <p>17 been involved in other use variance applications.</p> <p>18 And so again to start, this requires a</p> <p>19 D-1 use variance. This is because it's in the R-15</p> <p>20 residential one-family district. I think because the</p> <p>21 site had been improved with a commercial ground floor</p> <p>22 use and because it's on the Broadway corridor at that</p> <p>23 intersection of Broadway and Highview, people</p> <p>24 actually may not realize that it's actually in the</p> <p>25 R-15 zone which permits single-family homes and their</p>

<p style="text-align: right;">Page 58</p> <p>1 accessory uses, like garages, sheds and so forth,  2 also some other uses, greenhouses, farms, satellite  3 receiving antenna, multiple municipal uses etc.  4 The minimum lot size in this zone is  5 15,000 square feet. So if this site were to be  6 developed according to its underlying zone in the  7 R-15 zoning, they would be able to have one  8 single-family home on this site or a green house or a  9 farm etc. And again, I think as Mr. Burgis testified  10 to earlier, the site from our understanding was  11 originally a single family home but decades ago the  12 upper floors were converted into three apartment  13 units and, you know, most recently as I think most  14 people are aware those two upper floors were the  15 apartment units and the ground floor was the carpet  16 store.  17 So, you know, again, this has been a  18 nonconforming site for a long time. And the  19 apartment uses and the carpet store, neither is  20 permitted in the R-15. And if, you know, an  21 application were to come before the board for the  22 carpet store and the upper store units, it would  23 still be in front of the board for a use variance.  24 So you know, again, because now there is  25 the application before us which is to convert that</p>	<p style="text-align: right;">Page 60</p> <p>1 You know, it doesn't have to be uniquely  2 suited to such a use and it doesn't have to be the  3 only site available in Woodcliff Lake for such a use.  4 It's really, you know, is this site especially well  5 suited for this use in spite of the fact it's not  6 permitted, you know, what are its unique  7 characteristics about its location and its size and  8 so forth and it's existing improvements.  9 In addition to satisfying the positive  10 criteria, the applicant also has to address the  11 negative criteria, showing the variance or other  12 relief can be granted without substantial detriment  13 to the public good and that the variance will not  14 substantially impair the intent and purpose of the  15 zone plan and the zoning ordinance.  16 Now regarding substantial detriment to  17 the public good, the board needs to focus on sort of  18 identifying the impact on nearby properties of  19 permitting the three additional multi-family units  20 and determine whether or not that will cause such  21 damage to the character of the neighborhood as to  22 constitute substantial detriment to the public good.  23 The second half or of the prong of the  24 negative criteria I know has come up in recent  25 applications and that has to do with the Medici</p>
<p style="text-align: right;">Page 59</p> <p>1 ground floor to three additional multifamily units  2 and again that's not permitted in R-15, so that's why  3 the D-1 use variance is required.  4 So Mr. Burgis went through both the  5 positive and negative criteria for a use variance and  6 the board can grant, you know, a use variance in  7 particular cases and for special reasons. And the  8 special reasons requirement is referred to as the  9 positive criteria. And Mr. Burgis -- generally the  10 special reasons is that it promotes the purposes of  11 zoning and Mr. Burgis cited several purposes of the  12 MLUL that would be advised for the this application.  13 I won't go through them, he sort of reiterated a lot  14 of that information tonight.  15 But in addition to those purposes of  16 zoning, the applicant has to show the site is  17 particularly suitable for this proposed use which is  18 the six multifamily units. And so the board's going  19 to have to focus its deliberations about site  20 suitability on why the location of the site within  21 the municipality is particularly suited to this use  22 despite the zoning. And what unique characteristics  23 of the site make it particularly appropriate for the  24 proposed use rather than permitted, you know, in this  25 case, single-family use.</p>	<p style="text-align: right;">Page 61</p> <p>1 reconciliation and this is, you know, the requirement  2 for the applicant to sort of reconcile the fact that  3 they would like to have a use here that's obviously  4 not permitted in the zoning or the master plan.  5 So, you know, this, I think, I would  6 like to just sort of get on the record based on some  7 of the questions asked earlier is the Broadway  8 corridor has been studied a lot particularly over the  9 last 2 decades, Mr. Burgis's firm did, DMR Architects  10 did, my firm did. Including in the most recent  11 master plan and a lot of that discussion had to do  12 with multi-family housing and permitting multi-family  13 dwelling or permitting mixed use. I can't stress  14 enough that this site, all of those studies and all  15 of that sort of analysis, pertain to south of  16 Broadway pertains -- Highview, I'm sorry, section of  17 Broadway south of Highview. So it was really  18 focusing on the existing nonresidential zones, the  19 B-1 and the XO. And so I think whereas maybe in  20 previous applications the board could say, well, you  21 know what, council has looked at permitting  22 multifamily or mixed use on this site and they chose  23 not to do it, they never looked at this zone at this  24 site. They were simply looking below, you know,  25 south of Highview.</p>



<p style="text-align: right;">Page 62</p> <p>1 So you know, this discussion about the</p> <p>2 master plan with the 10 units per acre and permitting</p> <p>3 mixed use, again that is not recommended. You know,</p> <p>4 that pertained only to south of Highview. And I</p> <p>5 think, you know, one of the reasons -- I will say</p> <p>6 this, there was discussion of multifamily north of</p> <p>7 Highview in the settlement agreement with Fair Share</p> <p>8 Housing Center and there is, you know, some borough</p> <p>9 on sites that has been rezoned to permit multifamily</p> <p>10 affordable housing and also the VFW site has an</p> <p>11 overlay.</p> <p>12 So I think, you know, the site is</p> <p>13 relatively unique. It's long been a nonconforming</p> <p>14 use in the zone. Mr. Burgis testified I think in</p> <p>15 January that it's unlikely to ever revert to a single</p> <p>16 family home or any use actually that it is zoned for</p> <p>17 and I agree.</p> <p>18 You know, it is a nonconforming use</p> <p>19 across from the train station. It's situated</p> <p>20 between, you know, borough and affordable housing</p> <p>21 sites, single-family neighborhoods behind it. The</p> <p>22 other commercial uses south of Highview. It's a</p> <p>23 small 5,000-square foot site.</p> <p>24 You know, I think as Mr. Burgis</p> <p>25 testified to each case rises and falls on its own</p>	<p style="text-align: right;">Page 64</p> <p>1 reasonable and what the fact pattern presented</p> <p>2 supports.</p> <p>3 Anyway I hope that's helpful and I'm</p> <p>4 happy to answer any questions.</p> <p>5 CHAIRWOMAN MALLEY: Thank you, Liz.</p> <p>6 Anybody on the board have questions? Hopefully that</p> <p>7 clarified.</p> <p>8 MR. PRINCIOTTO: I have a question and</p> <p>9 Mr. Neiss may want to object but he might want to</p> <p>10 wait for the answer also. But did the master plan</p> <p>11 address this particular site that was adopted by the</p> <p>12 planning board.</p> <p>13 MR. NEISS: Can I just jump in? When</p> <p>14 was this master plan adopted by the board? Can I</p> <p>15 find that, can I have that answer?</p> <p>16 CLERK SMITH: March 16th was the first</p> <p>17 vote.</p> <p>18 MR. NEISS: So.</p> <p>19 CLERK SMITH: Resolution will be at our</p> <p>20 next meeting in April.</p> <p>21 MR. NEISS: So this master plan has not</p> <p>22 been adopted yet, it's just on first --</p> <p>23 CLERK SMITH: Was voted on and posted on</p> <p>24 the borough website. It has not gotten to</p> <p>25 resolution.</p>
<p style="text-align: right;">Page 63</p> <p>1 merits and I think the circumstances here are so</p> <p>2 unique it would be hard pressed to find a site with</p> <p>3 this type of location, with this size, with these</p> <p>4 characteristics with the existing store structure on</p> <p>5 it that would in any way be able to be replicated in</p> <p>6 any other site or create any sort of precedent.</p> <p>7 I know Mr. Burgis indicated that the</p> <p>8 applicant can reconcile the Medici reconciliation</p> <p>9 because the property is so unique and so</p> <p>10 distinguishable from any property in the community.</p> <p>11 I believe that is valid and the board has to decide</p> <p>12 if they agree.</p> <p>13 You know and I would just end with that</p> <p>14 the site does have these unique characteristics and,</p> <p>15 yeah, and again every application rises and falls on</p> <p>16 its own merits and essentially the statutory criteria</p> <p>17 are intended to make granting of a use variance rare.</p> <p>18 And you know the board needs to decide whether the</p> <p>19 applicant's testimony and, you know, specific fact</p> <p>20 pattern for this particular site warrants the grant</p> <p>21 of use variance. And I believe that if the board</p> <p>22 determines that they can do so without setting a</p> <p>23 precedent.</p> <p>24 But again, it is ultimately the board's</p> <p>25 decision and, you know, to decide what they think is</p>	<p style="text-align: right;">Page 65</p> <p>1 MS. LEHENY: It was adopted by the</p> <p>2 planning board, but no ordinances have been enacted</p> <p>3 or introduced.</p> <p>4 MR. NEISS: Thank you.</p> <p>5 MR. PRINCIOTTO: Okay. All right.</p> <p>6 A. So sorry Sal. You asked me so, no, this</p> <p>7 particular site was not looked at. I think actually</p> <p>8 there is something Mr. Burgis testified to with</p> <p>9 regard to the R-15 zone, you know, in the context of</p> <p>10 the whole R-15 zone, this is a relatively small site</p> <p>11 and I think if we tried to rezone just this</p> <p>12 15,000-square foot we would potentially be opening</p> <p>13 ourselves up to spot zoning. So within the context</p> <p>14 of the entire master plan and the entire borough it</p> <p>15 didn't make sense. We focused on the existing</p> <p>16 nonresidential zone south of Highview.</p> <p>17 Q. Okay. And you're familiar with some of</p> <p>18 the history of Woodcliff Lake including a proposed</p> <p>19 ordinance that was put together by DMR Associates --</p> <p>20 A. Uh-huh.</p> <p>21 Q. -- some time ago. And I believe that</p> <p>22 that ordinance, drafted ordinance that called for</p> <p>23 multiple dwellings was tabled by the governing body;</p> <p>24 correct?</p> <p>25 A. Uh-huh.</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. And that, but that ordinance dealt with 2 property south of Highview, just to be clear? 3 A. That's correct. 4 Q. It didn't deal with property north of 5 Highview? 6 A. It did not. 7 Q. And it did not include this particular 8 site to be specific? 9 A. That's correct. 10 MR. PRINCIOOTTO: Okay. I don't have any 11 other questions. 12 MR. NEISS: I have a question. 13 CROSS-EXAMINATION BY MS. NEISS: 14 Q. Ms. Leheny, you testified that if the 15 board grants this application it won't be a 16 precedent. That was something that was, that I heard 17 expressed during some of the public's questioning. 18 Why won't it be a precedent? 19 A. Okay. Well, I think again as Mr. Burgis 20 testified to and I believe I said it a couple of 21 times which is, you know, case law and the municipal 22 land use law it's all very clear each case rises and 23 falls on its own fact pattern. You know, every site 24 and I believe that the statutory criteria within the 25 municipal land use law to the zoning board has to</p>	<p style="text-align: right;">Page 68</p> <p>1 have commercial use, variance were granted in the 2 past for commercial use? 3 THE WITNESS: You know, I don't know, 4 and I think, you know, even if that were one 5 characteristic that the board was taking into 6 consideration you'd also have to with this particular 7 lot, you'd say, well, you have to look at where it 8 is. Where its location is, you know, what street 9 it's on, where it is vis-a-vis the train station, 10 where it is, you know, vis-a-vis other types of uses. 11 So I don't know. The answer is I don't know. 12 MS. PICINIC: Thank you. 13 CHAIRWOMAN MALLEY: Where do we go from 14 here? 15 MR. PRINCIOOTTO: We have to open to the 16 public for questions. 17 CHAIRWOMAN MALLEY: Of Liz? 18 MR. PRINCIOOTTO: Yes. 19 CHAIRWOMAN MALLEY: Can we get a motion 20 to open if nobody else has any questions? 21 MR. KAUFMAN: Motion to open to the 22 public. 23 MS. HEMBREE: Second. 24 CHAIRWOMAN MALLEY: All in favor? 25 ALL MEMBERS: Aye.</p>
<p style="text-align: right;">Page 67</p> <p>1 take into consideration to grant a use variance makes 2 it somewhat difficult to grant a use variance. It's 3 hard to grant a use variance. There is a lot that an 4 applicant has to overcome. There is a lot of the 5 special reasons, the particular suitability, you 6 know, and the negative criteria. And overcoming the 7 Medici reconciliation, it's difficult. They make it 8 difficult. 9 And so I think the idea is that look, if 10 there is a site where you can kind of, you know, that 11 the board can comfortably say, you know what, we 12 actually do think this does meet all the statutory 13 criteria to grant a use variance. That is unusual 14 and it should be an unusual thing and it often is. 15 It doesn't set a precedent. By case law it doesn't 16 set a precedent, but I think also just given the 17 statutory criteria it would be very difficult to set 18 a precedent. 19 MR. NEISS: Great thank you. 20 CROSS-EXAMINATION BY BOARD MEMBERS: 21 MS. PICINIC: Can I ask a question and I 22 don't know, Liz, if you actually know the answer to 23 this, it may have been even asked. 24 Do you know of any properties in 25 Woodcliff Lake that are zoned in R-15 currently that</p>	<p style="text-align: right;">Page 69</p> <p>1 CHAIRWOMAN MALLEY: Any opposed? Okay. 2 Meg, can you do your thing? 3 CLERK SMITH: Board is now open, the 4 meeting is now open to the public. Those watching on 5 TV can call in with any questions of Ms. Leheny, 6 phone number is (201) 391-4977, we are at extension 7 203, and can take one phone call at a time. 8 If you are on zoom and have any 9 questions of Ms. Leheny, you may raise your hand and 10 we will call on those people with their hands raised 11 one at a time. 12 Anybody asking questions if they could 13 please just spell their name so we can get it correct 14 on the record. 15 Okay. I have one person raising their 16 hand so far on zoom. It's a Laura Jeffas. 17 Ms. Jeffas, can you hear us? 18 MS. JEFFAS: I'm sorry, I had to unmute. 19 CLERK SMITH: That's okay. 20 MS. JEFFAS: Laura Jeffas, J-E-F-F-A-S. 21 Woodcliff Lake. And I don't know, Liz, if you know 22 the answer to this or not. But a use variance has 23 never been issued for this building? Because on the 24 tax records it's two-story and it's an R-15. But 25 there are three stories being used in the building</p>

# Leheny - cross - Audience Members

<p style="text-align: right;">Page 70</p> <p>1 and it looks to me just looking at the building  2 itself, that somebody at one point converted an  3 attic. So I'm guessing based on the facade of the  4 building that that third floor does not even have  5 required ceiling heights as they are in the other  6 parts of the building?  7 So I mean are we talking about taking,  8 like, approving something that's already illegal  9 and -- just because somebody did this in the past?  10 THE WITNESS: All right. Okay. So  11 there are a couple of things I would say and I think  12 Mr. Neiss wanted to jump in as well. But one is that  13 and this often comes up with boards, but boards don't  14 really have jurisdiction over building code issues  15 that's really the building code official. And that  16 is the international building codes. So if there was  17 anything unsafe about the third floor, we really as a  18 zoning board don't have purview over that.  19 It's really because -- and we don't have  20 the expertise, I don't have the expertise. I don't  21 think anybody here does. That's something that  22 somebody who is a licensed, you know, building  23 official would say, would have to check.  24 And if something wasn't up to code then  25 they would not be allowed to, the space would not be</p>	<p style="text-align: right;">Page 72</p> <p>1 MR. DaCOSTA: They are 8-foot ceilings.  2 MS. JEFFAS: What is the rest of the  3 building?  4 MR. DaCOSTA: Everything is 8-foot  5 ceiling.  6 MS. JEFFAS: It's the same upstairs as  7 it is on the first two floors.  8 MR. DaCOSTA: Correct.  9 MS. JEFFAS: Okay.  10 CLERK SMITH: Okay. Mr. Couto.  11 Mr. Couto, can you hear us.  12 MR. COUTO: Hi. How are you? Thank you  13 again everyone. I have a question I would like  14 clarification on not setting a precedent. Okay. And  15 maybe Mr. Princiotto can back up. So in your opinion  16 if this gets approved it does not set the precedent  17 for the rest of the R-15 zone.  18 THE WITNESS: No, no, I mean, the rest  19 of the R-15 zone doesn't have the same  20 characteristics that this site has which is the basis  21 for granting the use variance. And there is rezoning  22 so anything else that would, anybody who would want  23 to do a similar project in the R-15 would have to  24 come before the board and they would have to provide  25 the same testimony and address the same statutory</p>
<p style="text-align: right;">Page 71</p> <p>1 allowed to be inhabited.  2 But with regard to I think your other  3 question was just maybe that if you thought the  4 building got higher or if there was previous use  5 variances, I am unaware of them, I don't know. Some  6 of this, it is an old building, some of this may have  7 happened, some of the conversions may have happened  8 before the zoning code was enacted.  9 But you know, I am unaware, I know there  10 was mention before that perhaps the carpet store  11 received use variance but I don't happen to know that  12 for sure.  13 MS. JEFFAS: But this is a 2-story  14 building, am I correct?  15 THE WITNESS: I understand that it's two  16 and a half, it has the sort of a top section that's a  17 little bit smaller than the other sections and that's  18 where there are units up there.  19 MS. JEFFAS: And well I guess maybe this  20 isn't a question for you, that ceiling height is  21 going to be raised as well?  22 MR. DaCOSTA: There is no modifications  23 proposed to the second and third floor.  24 MS. JEFFAS: Well, Mr. DaCosta, how tall  25 are those ceilings?</p>	<p style="text-align: right;">Page 73</p> <p>1 criteria. And it would be a completely different set  2 of facts and evidence and characteristics.  3 MR. COUTO: Okay. Mr. Princiotto, in  4 your legal opinion does that clear?  5 MR. PRINCIOTTO: Yes, and I did submit a  6 review letter and I was going to make a statement at  7 a later time, but being you raised it right now, I'll  8 make my statement right now.  9 And this statement comes right out of  10 Cox who is a leading authority on zoning and,  11 generally speaking, "the granting of a variance to  12 one property owner does not create a precedent of a  13 granting of a variance to other property owners since  14 each variance must stand or fall on its own peculiar  15 factual circumstances."  16 And that's based upon the Supreme Court  17 of New Jersey case Kohl vs. Mayor and Council of Fair  18 Lawn, 50 NJ 268.  19 So it's not my opinion, that is the  20 opinion of Cox who is a leading authority on zoning.  21 Now, that being said if over a long  22 period of time the same variances are granted to  23 multiple, multiple property owners and then someone  24 applies for the same type of variance and it's denied  25 well, they are going to say they are not being</p>

# Leheny - cross - Audience Members

<p style="text-align: right;">Page 74</p> <p>1 treated fairly and being discriminated against. But</p> <p>2 I think you have heard all the testimony of</p> <p>3 Mr. Burgis and Liz Leheny, you know, on this</p> <p>4 particular property and unique circumstances so it's</p> <p>5 up to the board with regard to the statutory</p> <p>6 criteria. But I believe the law as stated by Liz</p> <p>7 Leheny, you know, is accurate with regard to</p> <p>8 precedent setting nature.</p> <p>9 Not to say that somebody might want to</p> <p>10 raise it as an argument but what I read to you is the</p> <p>11 state of law.</p> <p>12 MR. COUTO: Is it possible, I mean, it</p> <p>13 appears to me the main reason that the board could</p> <p>14 approve it, is this is a historic site. Could the</p> <p>15 board approve based on being historic site as a back</p> <p>16 up so people don't, you know, R-15 can claim historic</p> <p>17 site?</p> <p>18 MR. PRINCIOTTO: That's why the law is</p> <p>19 the way it is. Real property is generally considered</p> <p>20 unique. And there are a lot of characteristics to</p> <p>21 each application. And this, you know, the argument</p> <p>22 here by Mr. Burgis the planner for the applicant is</p> <p>23 that there are unique characteristics here in terms</p> <p>24 of the design of the building, the past use of the</p> <p>25 building, the current state of the building, the</p>	<p style="text-align: right;">Page 76</p> <p>1 I think you have already heard some of the comments.</p> <p>2 I'm sure there will be more.</p> <p>3 MR. COUTO: Thank you very much. You</p> <p>4 all do a great job.</p> <p>5 CLERK SMITH: I have a Gwen Levine.</p> <p>6 Mrs. Levine, if you can please spell your name, if</p> <p>7 you could spell your name.</p> <p>8 MS. LEVINE: Okay. It's Gwen Levine,</p> <p>9 L-E-V-I-N-E.</p> <p>10 CLERK SMITH: Thank you.</p> <p>11 MS. LEVINE: You're welcome. Thank you</p> <p>12 for the opportunity to ask a question. I'd like to</p> <p>13 suggest something given all of what was said at the</p> <p>14 last meeting and just now.</p> <p>15 If there is going to be a motion to</p> <p>16 approve 216, can it state specifically that this</p> <p>17 approval is based on the fact that this is a unique,</p> <p>18 historical, existing, nonconforming building? I</p> <p>19 think this kind of a motion would make approval of</p> <p>20 this building not a precedent for any other proposals</p> <p>21 because it is so unique.</p> <p>22 It would be great the motion could</p> <p>23 include that. I would love that. Thank you.</p> <p>24 THE WITNESS: I'm sorry, Sal, do you</p> <p>25 want to answer that or do you want me to answer that.</p>
<p style="text-align: right;">Page 75</p> <p>1 historic nature of the building, the location of the</p> <p>2 building. There are a lot of factors involved here.</p> <p>3 The fact that it's an R-15 zone not likely to be</p> <p>4 redeveloped as a single-family home, the issue of if</p> <p>5 it was a, if it's not a, only to be developed as a</p> <p>6 single-family home and not likely to be developed</p> <p>7 then how would it be developed, the benefits versus</p> <p>8 of a residential use rather than a mixed use with</p> <p>9 commercial component to it.</p> <p>10 You know, all the factors, I'm not going</p> <p>11 to list all of them, but you have heard all the</p> <p>12 arguments and all the factors both positive and, you</p> <p>13 know, the board has to consider whether or not there</p> <p>14 are any negative factors.</p> <p>15 MR. COUTO: Mr. Princiotto if the board</p> <p>16 gives an approval, could they give an approval that</p> <p>17 one of the main reasons for approving was because</p> <p>18 this is historic site? Could they put that on paper?</p> <p>19 MR. PRINCIOTTO: I think the board</p> <p>20 members are going to discuss it and they are going to</p> <p>21 give their reasons why they are in favor of voting</p> <p>22 for it if they are, and they'll give their reasons</p> <p>23 why they are not in favor of it if they are not in</p> <p>24 favor of it. But I think the board should consider</p> <p>25 all of the factors to this particular application and</p>	<p style="text-align: right;">Page 77</p> <p>1 MR. PRINCIOTTO: I don't think it has to</p> <p>2 be answered. I think it was a request, but you can</p> <p>3 answer it if you have a comment.</p> <p>4 THE WITNESS: No, no, I think that's</p> <p>5 something that can be done if those are the reasons,</p> <p>6 if the board were to vote in favor and if those were</p> <p>7 the reasons stated by the board that would absolutely</p> <p>8 go in the resolution.</p> <p>9 CLERK SMITH: I have nobody else raising</p> <p>10 their hand on zoom and I have had no phone calls.</p> <p>11 CHAIRWOMAN MALLEY: Can we get a motion</p> <p>12 to close?</p> <p>13 MS. BUSHELL: Motion to close.</p> <p>14 CHAIRWOMAN MALLEY: Can we get a second?</p> <p>15 MR. KAUFMAN: Second.</p> <p>16 CHAIRWOMAN MALLEY: All in favor.</p> <p>17 ALL MEMBERS: Aye.</p> <p>18 CHAIRWOMAN MALLEY: Any opposed? Okay.</p> <p>19 Closed to the public. Okay. We are done with</p> <p>20 testimony I think. Back to Mr. Neiss.</p> <p>21 MR. NEISS: Thank you, Madame</p> <p>22 Chairwoman. I just want to correct something that</p> <p>23 Liz said. She referred to the building as being an</p> <p>24 old building. I would rather refer to it as being a</p> <p>25 historic building. I just want to go on record with</p>

<p style="text-align: right;">Page 78</p> <p>1 that.</p> <p>2 I'm not going to take much time at this</p> <p>3 point, the board is very, very familiar with this</p> <p>4 application. I think what we've presented to you is</p> <p>5 in my humble opinion a terrific application not just</p> <p>6 because it's terrific in and of itself, but because</p> <p>7 of what it will do for this part of Broadway.</p> <p>8 And it will dress it up and this</p> <p>9 building once completed will become like a landmark</p> <p>10 in your town. And I think it can only benefit</p> <p>11 Woodcliff Lake.</p> <p>12 Mr. DaCosta has indicated that's really</p> <p>13 what he wants to do. This design, the architecture,</p> <p>14 everything associated with it is going to result in a</p> <p>15 tremendous benefit to the town. So for the reasons</p> <p>16 that have been set forth by all of my professionals</p> <p>17 and Mr. DaCosta, I would respectfully request that</p> <p>18 the board after considering and deliberating on this</p> <p>19 application that it be approved. Thank you.</p> <p>20 CHAIRWOMAN MALLEY: Thank you. Go</p> <p>21 ahead, you look like you were saying something, Sal.</p> <p>22 MR. PRINCIOTTO: Well, even though I</p> <p>23 know members of the public when they ask questions</p> <p>24 they make comments, you also have to open to the</p> <p>25 public with regard to comments that they want to make</p>	<p style="text-align: right;">Page 80</p> <p>1 ALL MEMBERS: Aye.</p> <p>2 CHAIRWOMAN MALLEY: Anyone opposed?</p> <p>3 CLERK SMITH: The meeting is now open to</p> <p>4 the public for comments. You may call into the</p> <p>5 borough (201) 391-4977 and dial extension 203 to</p> <p>6 reach the meeting room. If you are on zoom you may</p> <p>7 raise your hand and we will call on you one at a</p> <p>8 time. Please spell your name so we have it for the</p> <p>9 record.</p> <p>10 I have a Mr. Couto.</p> <p>11 MR. COUTO: I would just request the</p> <p>12 board if they incline to approve it, I would support</p> <p>13 it if it's specifically stated this is a historic,</p> <p>14 mostly because of historic site. If it's mostly</p> <p>15 historic site, I would support it because it gives us</p> <p>16 coverage if we need to protect over development on</p> <p>17 rest of R-15. If we are not using the historic site</p> <p>18 wording on record then I don't recommend approval.</p> <p>19 I recommend it be modified approval to</p> <p>20 meet potential other problems. But I would support</p> <p>21 if they put historic site. Thank you very much.</p> <p>22 CHAIRWOMAN MALLEY: Thank you.</p> <p>23 CLERK SMITH: I have John Mayo</p> <p>24 requesting to address the board with comments.</p> <p>25 Mr. Mayo can you hear us.</p>
<p style="text-align: right;">Page 79</p> <p>1 even though they have made them, technically some</p> <p>2 just asked questions and didn't make comments waiting</p> <p>3 for the comment period. So we do have to open to the</p> <p>4 public to make comments about the application.</p> <p>5 MS. HEMBREE: I thought we just heard</p> <p>6 some, Sal.</p> <p>7 MR. PRINCIOTTO: We did but it was</p> <p>8 really, you know, some people made comments with</p> <p>9 questions. Some people only asked questions. So I'm</p> <p>10 going to ask that members of the public don't make</p> <p>11 comments that they already made when they were asking</p> <p>12 questions, but if there are any, I think you do have</p> <p>13 to open to the public with regard to the comments</p> <p>14 especially for those who just asked questions knowing</p> <p>15 there would be a comment period.</p> <p>16 CHAIRWOMAN MALLEY: Let's try and limit</p> <p>17 those to not repeat and under three minutes and let's</p> <p>18 not repeat what the person before you said.</p> <p>19 MR. PRINCIOTTO: Can we get a motion to</p> <p>20 open to the public for comments now?</p> <p>21 MR. KAUFMAN: Motion to open to the</p> <p>22 public for comments only.</p> <p>23 CHAIRWOMAN MALLEY: Can we get a second?</p> <p>24 MR. MANISCALCO: Second.</p> <p>25 CHAIRWOMAN MALLEY: All in favor.</p>	<p style="text-align: right;">Page 81</p> <p>1 MR. MAYO: Yes, I can. Mr. DaCosta --</p> <p>2 CLERK SMITH: Mr. Mayo, we cannot hear</p> <p>3 you.</p> <p>4 CHAIRWOMAN MALLEY: He's got two</p> <p>5 sessions open.</p> <p>6 MR. MAYO: I'm sorry. Can you hear me</p> <p>7 now?</p> <p>8 CLERK SMITH: Yes.</p> <p>9 MR. MAYO: Okay. Mr. DaCosta, I think</p> <p>10 you agreed and I don't want to put words in your</p> <p>11 mouth, but I think you agreed to obtain the permits</p> <p>12 to remove the trees on my lot?</p> <p>13 MR. DaCOSTA: I have.</p> <p>14 MR. MAYO: Yes. Thank you very much. I</p> <p>15 appreciate your efforts. I do want to thank the</p> <p>16 board for listening to me. I hope everyone read my</p> <p>17 letter and take my concerns into consideration as far</p> <p>18 as light and trees and buffers, but I do not oppose</p> <p>19 the project if as Mr. DaCosta agreed to, you know,</p> <p>20 addressing these concerns I think it's a very good</p> <p>21 project and I hope it comes out in favor.</p> <p>22 CHAIRWOMAN MALLEY: Thank you.</p> <p>23 MR. MAYO: Thank you.</p> <p>24 CLERK SMITH: I have a Laura Jeffas</p> <p>25 requesting to address the board.</p>

<p style="text-align: right;">Page 82</p> <p>1 MS. JEFFAS: Hi again. The concern that  2 I have that it was brought up a few meetings ago is  3 about the fire approval, the sprinklers being  4 installed only in one portion of the building, is  5 that going to, like, affect other people who are  6 making renovations in town, like for instance, if you  7 add, put an addition in your house and you have to  8 put in hard wired smoke detectors throughout the  9 house, not just in the new construction, is that  10 going to be a concern that other people are going to  11 look to only bring the new lot.  12 MR. PRINCIOTTO: The fire code is the  13 fire code. It applies to everybody the same.  14 Whether if it applies to residences or commercial  15 property owners, the zoning board doesn't have any  16 control over the fire code. Any applicant or any  17 development has to comply with the provisions of the  18 fire code.  19 MS. JEFFAS: I see, but isn't that part  20 of, you know, what's being approved here?  21 MR. PRINCIOTTO: No.  22 MS. JEFFAS: The final plan or just the  23 actual, just the actual design?  24 MR. PRINCIOTTO: No. The board doesn't  25 have control over the fire code. I think there was</p>	<p style="text-align: right;">Page 84</p> <p>1 developer claiming unfair treatment using that as a  2 standard and I know you've discussed this, but if we  3 look at 62 Broadway that building is there because of  4 variances. But yet that building was used as a  5 standard for the new master plan. And so when we  6 look at buildings that are approved by variances,  7 they do in some regard set a standard.  8 So I think that, you know, my concern is  9 down the road with other properties especially north  10 of Highview that could become overdeveloped because  11 of this 16.5, R or 4 density -- and also I think that  12 again I will express this that I think that, I mean,  13 the building is gorgeous and definitely add value to  14 Broadway, no doubt.  15 But I think it would have been perfect  16 if Mr. DaCosta had considered creating two luxury  17 apartments in addition to the ones upstairs for a  18 total of four, utilizing the proximity to the train  19 station and with the percentages of young  20 professionals and I think that having more luxury  21 apartments closer to the train station attracting  22 young professionals that travel to the city, I think  23 that that would have been perfect and would not have  24 been an issue for long term density issues. So thank  25 you very much.</p>
<p style="text-align: right;">Page 83</p> <p>1 some clarification and revision as to what was  2 required under the fire code and the board did obtain  3 comment about it, but the board doesn't have  4 jurisdiction over the fire code. And the applicant  5 has to comply with the fire code.  6 MS. JEFFAS: So that wouldn't set any  7 kind of precedence here or throughout the town, I  8 should say?  9 MR. PRINCIOTTO: No. No, they are  10 compliant with the fire code. And --  11 MS. JEFFAS: Okay.  12 MR. PRINCIOTTO: Sometimes our fire  13 department would love to have an enhancement over  14 what's required and including an entire sprinklered  15 building, some applicants will do it voluntarily but  16 not because they are required.  17 MS. JEFFAS: I see. Okay. Thank you.  18 MR. PRINCIOTTO: You're welcome.  19 CLERK SMITH: Mrs. Ann Marie Borrelli.  20 MS. BORRELLI: Thank you again for  21 hearing me. Thank you. I have a concern, I mean, my  22 concern as you all know I've voiced it many times, is  23 the density.  24 And the density is the 16, it's like  25 16.5 or something, and then my concern is another</p>	<p style="text-align: right;">Page 85</p> <p>1 CLERK SMITH: I have a Mr. Bert Taylor.  2 Mr. Taylor, please spell your last name. Yes,  3 Mr. Taylor you can address the board and please spell  4 your last name.  5 MS. TAYLOR: Yes, this is his wife.  6 T-A-Y-L-O-R.  7 CLERK SMITH: I apologize. It was  8 coming up as Burt Taylor.  9 MS. TAYLOR: Right, it's his phone.  10 CLERK SMITH: Okay.  11 MS. TAYLOR: I would like to just raise  12 something that may sound like a rerun, but we went  13 through every exercise known to mankind in working on  14 the plan itself, the master plan, and over and over  15 we heard no multi-family dwellings. No, means no.  16 Doesn't mean there are exceptions for a carpet store,  17 or because it's near the train station, or because  18 somebody would make some money off this. It just  19 means no.  20 And I am strongly against setting a  21 precedent, you can say this doesn't, but in reality  22 we all know law itself is based on precedent. You  23 are establishing something that will come back to  24 haunt the rest of the town and be the legacy of this  25 administration from now forward.</p>

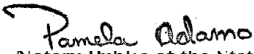
<p style="text-align: right;">Page 86</p> <p>1 I am highly insulted that something like  2 this would be brought up after the entire exercise of  3 the master plan which clearly stated no multifamily  4 residential or commercial in a location that's zoned  5 this way.  6 And to bring this up at this point I  7 find it an insult to the residents and clearly  8 indicates that everything that we went through in a  9 planning exercise was a sham.  10 I entirely urge you to vote against this  11 and let's keep the town the way we all moved here to  12 keep it that way. Not to start creating these  13 special cases and setting precedents for the future.  14 If I wanted to live in a town with  15 apartments I would have stayed where I was. Rather  16 than move here 11 years ago. I was an apartment  17 building owner I know what you are opening the can of  18 worms to. I highly am insulted by the idea of it and  19 I highly recommend voting against it. Thank you.  20 CLERK SMITH: There are no other hands  21 raised on zoom and we have had no phone calls.  22 MR. PRINCIOTTO: We need a motion to the  23 close to the public.  24 MR. KAUFMAN: Motion to close to the  25 public.</p>	<p style="text-align: right;">Page 88</p> <p>1 that they are restoring the cupola to the original  2 state. I do think that the improvements are going to  3 be a major improvement to the existing, you know,  4 structure. And I think it will be a positive to the,  5 you know, to the town and based on the location. You  6 know, from a commercial perspective being that there  7 is commercial a space now personally I wouldn't mind  8 there being commercial on the first floor, but I do  9 think people raised issues regarding parking and I  10 think having three units versus if you had a cafe or  11 a restaurant I think you would cause more parking  12 concerns going up Highview and I think, you know,  13 with three additional units there's less there.  14 I think we do need to take into  15 consideration make sure there is light protection  16 that, I think it was Mr. Mayo and Mr. DaCosta discuss  17 having a fence and putting in additional shrubs, that  18 should be included.  19 But I think it's a net positive, you  20 know, what's being proposed here and I think I would,  21 I'm in favor of it.  22 MR. PRINCIOTTO: Well said.  23 MR. KAUFMAN: Well said Phillip, good  24 job. You covered a lot of good points. I think  25 there are two pieces make sure the little</p>
<p style="text-align: right;">Page 87</p> <p>1 CHAIRWOMAN MALLEY: Can we get a second?  2 MR. MANISCALCO: Second.  3 CHAIRWOMAN MALLEY: All in favor?  4 ALL MEMBERS: Aye.  5 CHAIRWOMAN MALLEY: Any opposed? Okay.  6 We are closed to the public. Any discussion?  7 Anybody want to make a motion or?  8 MR. PRINCIOTTO: I think you should have  9 some discussion.  10 CHAIRWOMAN MALLEY: Well, the other half  11 was have a discussion on -- go ahead.  12 MR. MANISCALCO: I'll start. So I  13 definitely understand the public's concern about  14 precedent here. I mean I have concern as well, but I  15 think it's been alleviated with, you know, it's such  16 a unique property, it's a historic building. You  17 know, I think the nature of the buildings and  18 properties on Broadway are much different than this.  19 I don't see how if we approve this, how, you know,  20 listen, since a developer can come in and always say  21 we approved this, but I just don't see how that this  22 would cause precedent for other sites.  23 I mean, we are not, they are not  24 increasing the footprint of the building, so there's  25 no additional building, you know. I like the fact</p>	<p style="text-align: right;">Page 89</p> <p>1 contingencies added on with respect to the  2 landscaping Mr. DaCosta already agreed to with  3 Mr. Mayo. I definitely appreciate the town input  4 towards the correct verbiage with, you know, as much  5 layer of protections as we can put in with  6 historic key words. Listen, we provide, we hear  7 cases every month about variances, right, whether  8 it's a patio, whether it's something like this and  9 every time we have to think about you know, how it  10 impacts, what else someone has done, along those  11 lines.  12 I'm in a similar manner Phillip, I think  13 this is a good thing with the right, you know,  14 addendum attached to it I'm also in favor of this.  15 MS. PICINIC: I'll speak. So I will  16 admit I have gone back and forth with respect to my  17 ideas of this property. I do think though that  18 Mr. DaCosta was very thoughtful in the design. I  19 think it truly would have a positive impact on the  20 community and on Broadway in particularly.  21 You know, at the end of the day, my  22 concern is setting a precedent because I understand,  23 you know, we all moved to this town to not be heavily  24 populated with apartments and I think though that it  25 being a historic site and restoring it to that, I</p>

<p style="text-align: right;">Page 90</p> <p>1 truly do think it makes it unique. And I really  2 think it's going to look great in town. And I think  3 it's going to truly, you know, be a positive to this  4 community and the landscape.  5 MR. PRINCOTTO: We skipped over Barbara  6 I think and then Chris would be next. Christina.  7 MS. BUSHELL: I think it will be a  8 positive element in this town and it will change the  9 appearance of Broadway. Right now it's an eyesore.  10 And so I think it's very good.  11 Also I remember discussing, we had a  12 discussion on the master plan and there was a  13 discussion that we do -- we will have some  14 multi-family housing, it will be stacked, but that's  15 the way it's going to be.  16 It's a town that surely has  17 single-family units and we all love it, but there was  18 something in that master plan that there was a  19 discussion about that. So I hope that person isn't  20 so insulted about it.  21 CHAIRWOMAN MALLEY: Did we miss  22 Christina?  23 MR. PRINCOTTO: Christina is next.  24 MS. HEMBREE: Well, you know how much I  25 got excited to find out what the building was. I had</p>	<p style="text-align: right;">Page 92</p> <p>1 it.  2 CHAIRWOMAN MALLEY: And Gary, we didn't  3 get to you. Just unmute first.  4 MR. MENZE: I was muted. Sorry. Yeah,  5 basically I agree with everybody so far and it's a  6 unique situation, it's an historic building. The  7 only two cents I would put in, I would just wish to  8 see maybe 5 units instead of six, being that it's  9 such a small building and a lot and everything like  10 that. So that was just my concern. I just -- one  11 less unit instead of -- but everything else is  12 wonderful, you know, the architecture and everything  13 else looks great.  14 CHAIRWOMAN MALLEY: Okay.  15 MS. HEMBREE: And also the improvement  16 to Highview Avenue. It's going to be a beautiful,  17 it's going to be a much, it's going to change the  18 character of that street.  19 CHAIRWOMAN MALLEY: Yes.  20 MS. HEMBREE: I think.  21 CHAIRWOMAN MALLEY: I think it will make  22 a big difference. I guess I'm one of those that sat  23 on the master plan committee and was one that pushed  24 for more apartments, more places for and I'm looking  25 around on the zoning board and saying our kids to be</p>
<p style="text-align: right;">Page 91</p> <p>1 no idea. It didn't look like it was old at all. And  2 I think he's shown us what a gorgeous architectural  3 treasure we have in this town and we don't really  4 have a history here.  5 They are all, we think we are always  6 farmland and there was no life here, but that  7 building built in 1870 along with the Ackerman  8 Brothers Building in Montvale shows that there was a  9 life here.  10 And there is no precedent in zoning. I  11 think we keep saying that word, but it doesn't, it's  12 not a legal term that we can use when it comes to  13 zoning. So I'm not concerned about it at all.  14 And I just think it's going to be the  15 best use of the space that is there. I mean, I lived  16 on Highview Avenue and every time I pass that  17 building I said, oh, what an ugly building that is.  18 What's it doing there? And I think it's going to be  19 a building that we are going to be proud of. And  20 it's going to surprise us. I think we will be very  21 surprised by what it's going to look like and how it  22 changes our perception of Woodcliff Lake.  23 So I'm, you know, how I am, I like the  24 horse drawn wagon with the child in the seat, that  25 just appeals to me. So I definitely am in favor of</p>	<p style="text-align: right;">Page 93</p> <p>1 able to come back to town after they leave, you know,  2 to be able to afford a place to live and hoping that  3 a building such as this will let them come back to  4 town.  5 I think this building will upgrade that  6 whole corner, I mean, I know it will. And I'm hoping  7 that maybe this will push some of our other owners  8 along Broadway that and the new master plan when it  9 finally gets adopted will help other owners to  10 upgrade their buildings, you know, give them a little  11 more opportunity to make their buildings look better  12 to maybe put another story on to put something over  13 the top of retail and make it that much more  14 interesting, to get some more activity along  15 Broadway. Not just old empty buildings.  16 Yet I'm tired of seeing old shells of  17 buildings and parking lots with nothing there. You  18 know, from Highview to Columbus and even up to  19 Lincoln it's been looking really tired. The train  20 station, everything just looks so run down lately.  21 You know, this location it's a unique  22 location, a unique building in an R-15 much more  23 suited to I think the multifamily. I would have  24 loved to have seen a cafe there, but when I sat back  25 and looked at the traffic that that would generate, I</p>



<p style="text-align: right;">Page 94</p> <p>1 think that would be a huge mistake. I think putting  2 apartments there much more low impact use for that  3 location.  4 So I'm in favor of it, you know,  5 preserving the little history that we still have left  6 in our town. But I think if we are moving forward  7 with this, we need to make sure that we do have the  8 private trash hauler, the dumpsters as were on the  9 plan. That I know Mr. Burgis said that we don't have  10 affordable housing issues there, but we do need to  11 make sure that if that's incorrect that we do make  12 sure that it does follow affordable housing  13 guidelines, that the fire code is followed. And that  14 you know the density it's only 6 units on this  15 property. It's not like we are filling up an acre  16 with 16 or more units. So we are looking at one  17 little property.  18 So I am in favor of this and I have to  19 say Mr. DaCosta, Mr. Neiss and your whole team you  20 did quite a job with this one. Because I was totally  21 against it when you started. So congratulations on  22 what you did with this.  23 MR. DaCOSTA: Thank you.  24 MR. NEISS: Thank you.  25 CHAIRWOMAN MALLEY: You're welcome.</p>	<p style="text-align: right;">Page 96</p> <p>1 and certainly settlement agreement with Fair Share  2 Housing Council.  3 There should also be compliance with all  4 of the conditions and requirements and items as set  5 forth in the Neglia review letter because I believe  6 there were some issues and the applicant had  7 indicated willingness to address those. And the  8 applicant will also I would recommend comply with any  9 of the stipulations made on the record including  10 those with regard to the Mayo property and the  11 removal of the trees and getting the permits and the  12 arborvitaes and fence and whatever other stipulations  13 that were during the testimony.  14 So with those conditions, I will leave  15 it up to the board in terms of a vote and a motion.  16 CHAIRWOMAN MALLEY: Is that your  17 complete list, Sal?  18 MR. PRINCIOTTO: Yes, I mean, do you  19 want to me to go over the variances.  20 CHAIRWOMAN MALLEY: Do you want to add  21 those in so that whoever is making a motion?  22 MR. PRINCIOTTO: Yeah, I can, I mean,  23 I'll just list them, but I think we all know about  24 them.  25 It's a use variance for multiple</p>
<p style="text-align: right;">Page 95</p> <p>1 MR. PRINCIOTTO: Okay. Before the board  2 entertains a vote I would like to cover some of the  3 legal issues and issues raised by the board members.  4 The board has the authority to approve a  5 variance and impose conditions and I will start with  6 the garbage. As consideration for the variance the  7 board can impose a condition that the garbage be by a  8 private contractor performing the garbage pick-up as  9 was testified to tonight. And that be done at the  10 applicant's cost.  11 I already covered, and I think the  12 planners covered as well, the issue of precedent. On  13 the issue of affordable housing, I don't think the  14 board really has jurisdiction to make a determination  15 but will state that, you know, as a condition that if  16 the settlement agreement with the Fair Share Housing  17 Council or the Set Aside Ordinance, should it be  18 determined to require affordable housing implications  19 or an affordable housing unit that the applicant  20 would have to comply, I know it's Mr. Burgis's  21 opinion and may be shared by others that it doesn't  22 apply to this application, but I don't think it's the  23 board that makes that determination. So however that  24 may shake out, okay, it will, but the applicant has  25 to comply with all of our ordinances that would apply</p>	<p style="text-align: right;">Page 97</p> <p>1 dwellings in a single family zone for 6 units. It's  2 for building coverage of 16.1 percent where the limit  3 is 15 percent. That was an existing nonconformity.  4 Maximum total surface coverage of 60.5 percent where  5 40 percent is the limit and also an existing  6 nonconformity. And slightly lesser amount of  7 55.8 percent.  8 And for a total maximum height of 40.1  9 feet where 30 feet is the limit, however I will  10 indicate and the resolution would indicate that  11 height variance is only for the purpose of  12 construction of a cupola not for any other  13 construction.  14 And a minimum front yard setback of  15 18.5 feet on Broadway where the requirement is  16 31.8 feet.  17 MS. HEMBREE: That's also --  18 MR. PRINCIOTTO: Excuse me, it's a  19 minimum front yard setback on Broadway of 18.5 feet  20 and 31.8 feet on Highview, where 35 feet is the  21 requirement. That's also an existing nonconformity  22 and no change.  23 Those are the variances. And I already  24 went over the other stipulations and conditions that  25 I would recommend.</p>

<p style="text-align: right;">Page 98</p> <p>1 CHAIRWOMAN MALLEY: Anybody have --</p> <p>2 MS. HEMBREE: I will make the motion.</p> <p>3 MR. KAUFMAN: Christina, you are our</p> <p>4 veteran, go ahead.</p> <p>5 MS. HEMBREE: He can write that up. I</p> <p>6 move what, you know, with all the variances etc., and</p> <p>7 all of the stipulations that Mr. PrinciOTTO listed.</p> <p>8 I think he covered it all. Am I right, Sal?</p> <p>9 MR. PRINCIOOTTO: Yes, all the conditions</p> <p>10 and the statement about affordable housing and</p> <p>11 compliance with Neglia, etc., and all the</p> <p>12 stipulations made on the record. Yes.</p> <p>13 MS. HEMBREE: So I so move.</p> <p>14 CHAIRWOMAN MALLEY: Do we have a second?</p> <p>15 CLERK SMITH: I'm sorry, who was the</p> <p>16 second?</p> <p>17 MR. MANISCALCO: Second.</p> <p>18 CLERK SMITH: Mr. Maniscalco.</p> <p>19 CHAIRWOMAN MALLEY: Can we get a roll</p> <p>20 call?</p> <p>21 CLERK SMITH: Yes. Chairwoman Malley?</p> <p>22 CHAIRWOMAN MALLEY: Yes.</p> <p>23 CLERK SMITH: Mr. Menze?</p> <p>24 MR. MENZE: Yes.</p> <p>25 CLERK SMITH: Ms. Hembree?</p>	<p style="text-align: right;">Page 100</p> <p>1 MR. NEISS: I would appreciate it.</p> <p>2 Thank you.</p> <p>3 MR. PRINCIOOTTO: You're welcome.</p> <p>4 MR. NEISS: And since the board is</p> <p>5 completed I'm just going to, if I may, I'm going to</p> <p>6 finish where I started which is to thank you all for</p> <p>7 coming to a special meeting tonight and all of you</p> <p>8 appearing, I will speak on behalf of Mr. DaCosta and</p> <p>9 tell you that we are very grateful for the</p> <p>10 consideration this board has given to this</p> <p>11 application.</p> <p>12 MR. DaCOSTA: Yes, I also like to thank</p> <p>13 the board, thanks for your time and consideration.</p> <p>14 I'm glad you see the project the way we do. Looking</p> <p>15 forward to working with you.</p> <p>16 CHAIRWOMAN MALLEY: Looking forward to</p> <p>17 seeing the outcome.</p> <p>18 MR. DaCOSTA: I think we all are, yes.</p> <p>19 MR. KAUFMAN: Congratulations.</p> <p>20 MS. PICINIC: Yes.</p> <p>21 CHAIRWOMAN MALLEY: Okay. And we are</p> <p>22 going to move into a closed session so I guess motion</p> <p>23 to --</p> <p>24 MS. HEMBREE: Adjourn.</p> <p>25 CHAIRWOMAN MALLEY: No, to closed</p>
<p style="text-align: right;">Page 99</p> <p>1 MS. HEMBREE: Yes.</p> <p>2 CLERK SMITH: Mr. Kaufman?</p> <p>3 MR. KAUFMAN: Yes.</p> <p>4 CLERK SMITH: Ms. Picinic?</p> <p>5 MS. PICINIC: Yes.</p> <p>6 CLERK SMITH: Mr. Maniscalco?</p> <p>7 MR. MANISCALCO: Yes.</p> <p>8 CLERK SMITH: And Ms. Bushell?</p> <p>9 MS. BUSHELL: Yes.</p> <p>10 CLERK SMITH: Motion is approved.</p> <p>11 MS. BUSHELL: Is that going to, is the</p> <p>12 motion also going to include the fact that it's a</p> <p>13 historical house? I know a lot of the people who</p> <p>14 called in were concerned about that.</p> <p>15 MR. PRINCIOOTTO: Yes, I most definitely,</p> <p>16 there were a lot of comments made about that and that</p> <p>17 will be included in the resolution as well as all the</p> <p>18 other factors. So we will have a detailed resolution</p> <p>19 that I will prepare for the next meeting that will</p> <p>20 have findings of fact and conclusions to the board,</p> <p>21 board review and approval of the board.</p> <p>22 MR. NEISS: Mr. PrinciOTTO, do you</p> <p>23 circulate your proposed resolutions to applicant's</p> <p>24 attorneys before the board meeting as I do?</p> <p>25 MR. PRINCIOOTTO: I can.</p>	<p style="text-align: right;">Page 101</p> <p>1 session.</p> <p>2 MS. HEMBREE: To a session? Do we go to</p> <p>3 another --</p> <p>4 CLERK SMITH: Yes, correct. There is</p> <p>5 another link that's been provided. So you would</p> <p>6 close out of this link and go to the other meeting</p> <p>7 and then we return once closed session is finished to</p> <p>8 this meeting.</p> <p>9 Mr. PrinciOTTO, do you need to make any</p> <p>10 announcement about no decision will be made at the</p> <p>11 closed session.</p> <p>12 MR. PRINCIOOTTO: I don't anticipate that</p> <p>13 there would be any decision making in the closed</p> <p>14 session, but we do need a motion to go into closed</p> <p>15 session.</p> <p>16 MS. BUSHELL: Excuse me, we are going to</p> <p>17 leave this session and get on the new link?</p> <p>18 CLERK SMITH: Yes, correct.</p> <p>19 MR. PRINCIOOTTO: Correct.</p> <p>20 MR. KAUFMAN: Meg, did you send two</p> <p>21 separate links? I just --</p> <p>22 CLERK SMITH: Yes, I sent, I tried to</p> <p>23 space them so it wasn't too confusing which one to go</p> <p>24 to.</p> <p>25 MR. KAUFMAN: Very good.</p>

<p style="text-align: right;">Page 102</p> <p>1 CLERK SMITH: Is there a motion to go to  2 closed session?  3 MS. BUSHELL: Motion.  4 MS. PICINIC: Motion to go to closed  5 session.  6 CLERK SMITH: Perfect. By Ms. Bushell  7 second by Ms. Picinic.  8 CHAIRWOMAN MALLEY: All in favor?  9 ALL MEMBERS: Aye.  10 CHAIRWOMAN MALLEY: Any opposed? All  11 right. See everybody over in the closed session.  12 (Whereupon the meeting is adjourned at  13 9:47 p.m.)  14  15  16  17  18  19  20  21  22  23  24  25</p>	
<p style="text-align: right;">Page 103</p> <p>1 CERTIFICATE.  2  3 I, PAMELA ADAMO, a Notary Public and  4 Certified Shorthand Reporter of the State of New  5 Jersey, do hereby certify that the foregoing is a  6 true and accurate transcript of the testimony as  7 taken stenographically by and before me at the time,  8 place and on the date hereinbefore set forth.  9 I DO FURTHER CERTIFY that I am neither a  10 relative nor employee nor attorney nor counsel of any  11 of the parties to this action, and that I am neither  12 a relative nor employee of such attorney or counsel,  13 and that I am not financially interested in the  14 action.  15  16   Notary Public of the State of New Jersey  17 My commission expires April 29, 2023  License No. 30X100209200  18  19  20  21  22  23  24  25</p>	

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